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## Progress in Implementing Chapter 16 (Labor) and Capacity-Building under the Dominican Republic – Central America – United States Free Trade Agreement

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## Progress in Implementing Chapter 16 (Labor) and Capacity-Building under the Dominican Republic – Central America – United States Free Trade Agreement

### Abstract

[Excerpt] The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) was approved by the United States Congress in 2005 through the CAFTA- DR Implementation Act. Reflecting the importance of the labor standards set out in Chapter 16 of the Agreement, Section 403(a) of the CAFTA-DR Implementation Act (codified at 19 U.S.C. § 4111(a)) includes a requirement for reporting on labor issues. Specifically, it requires the President to submit a biennial report to Congress on the progress made by the CAFTA-DR countries in implementing (i) Chapter 16 (Labor) of the CAFTA-DR and Annex 16.5 (Labor Cooperation and Capacity Building Mechanism) and (ii) the recommendations in the April 2005 report of the Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic (hereinafter the “White Paper”). The President delegated this reporting function to the Secretary of Labor, to be carried out in consultation with the United States Trade Representative (USTR).

This report has been prepared in accordance with the Act and addresses both the general requirements regarding Chapter 16 and the White Paper, and the four content requirements summarized below (see Annex A for Congressional language):

1. A description of the progress made in achieving the goals of the Labor Cooperation and Capacity Building Mechanism and the Labor Affairs Council, including a description of the capacity-building projects undertaken, funds received and results achieved (that is, the actual outcomes) in each CAFTA-DR country;
2. Recommendations on how the United States Government (USG) can facilitate full implementation of the recommendations contained in the White Paper;
3. A description of the work done by the CAFTA-DR countries with the International Labor Organization (ILO) to implement the recommendations contained in the White Paper and the efforts of the CAFTA-DR countries with international organizations, through the Labor Cooperation and Capacity Building Mechanism, to advance common commitments regarding labor matters;
4. A summary of public comments received on (a) the efforts made by the CAFTA-DR countries to comply with Article 16.5 of the agreement and to implement the White Paper recommendations; (b) efforts by the USG to facilitate full implementation of the White Paper recommendations; and (c) capacity- building efforts by the USG envisaged by Article 16.5 and Annex 16.5 of the Free Trade Agreement (FTA).

### Keywords

Dominican Republic-Central America-United States Free Trade Agreement, CAFTA-DR, Department of Labor, labor rights, labor law, working conditions

### Comments

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**Progress in Implementing Chapter 16 (Labor) and Capacity-  
Building under the Dominican Republic –Central America –  
United States Free Trade Agreement**



Second Biennial Report  
Submitted to Congress  
Pursuant to Section 403(a) of the  
Dominican Republic-Central America-United States  
Free Trade Agreement Implementation Act

Prepared by  
The U.S. Department of Labor  
Bureau of International Labor Affairs  
May 11, 2012

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## EXECUTIVE SUMMARY

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) was approved by the United States Congress in 2005 through the CAFTA-DR Implementation Act. Reflecting the importance of the labor standards set out in Chapter 16 of the Agreement, Section 403(a) of the CAFTA-DR Implementation Act (codified at 19 U.S.C. § 4111(a)) includes a requirement for reporting on labor issues. Specifically, it requires the President to submit a biennial report to Congress on the progress made by the CAFTA-DR countries in implementing (i) Chapter 16 (Labor) of the CAFTA-DR and Annex 16.5 (Labor Cooperation and Capacity Building Mechanism) and (ii) the recommendations in the April 2005 report of the Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic (hereinafter the “White Paper”). The President delegated this reporting function to the Secretary of Labor, to be carried out in consultation with the United States Trade Representative (USTR).

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- 2) **Recommendations** on how the United States Government (USG) can facilitate full implementation of the recommendations contained in the White Paper;
- 3) **A description of the work done** by the CAFTA-DR countries with the International Labor Organization (ILO) to implement the recommendations contained in the White Paper and the efforts of the CAFTA-DR countries with international organizations, through the Labor Cooperation and Capacity Building Mechanism, to advance common commitments regarding labor matters;
- 4) **A summary of public comments** received on (a) the efforts made by the CAFTA-DR countries to comply with Article 16.5 of the agreement and to implement the White Paper recommendations; (b) efforts by the USG to facilitate full implementation of the White Paper recommendations; and (c) capacity-building efforts by the USG envisaged by Article 16.5 and Annex 16.5 of the Free Trade Agreement (FTA).

This report provides information about how the USG has implemented Chapter 16 (Labor). It discusses how the USG has established the institutions, procedures and points of contact as required under Chapter 16, which provide vehicles for engagement and

dialogue among the CAFTA-DR parties, as well as with civil society. The report details USG review of submissions from civil society. In particular, it notes the issues raised in a submission received alleging failures by the Government of Guatemala to comply with the labor requirements of the trade agreement and how the USG investigated, reported and engaged with the Government of Guatemala on the issues raised. It also notes that the USG took the unprecedented step of requesting consultations under the CAFTA-DR Labor Chapter with the Government of Guatemala, in an attempt to use all mechanisms available to find a collaborative solution and that, when progress remained elusive, the USG took the issues to the CAFTA-DR Dispute Settlement Chapter. This is the first time a government has used the dispute settlement procedures under a free trade agreement to seek compliance with the FTA's labor provisions. These efforts reflect the USG's commitment to ensure that all CAFTA-DR Parties comply with their obligations under the Labor Chapter.

This report also looks at steps taken by the CAFTA-DR countries over the last five years (2005-2010) to address the issues identified in the White Paper. The data provided reflect the information available; in particular the assessment relies heavily on the ILO *Verification Report*, which provides a detailed biannual analysis of progress made under the White Paper categories.<sup>1</sup> Although the data referenced do not provide direct or complete indicators of improved enforcement, the information does indicate where progress was made toward achieving the White Paper goals and where issues still remain. Below are some of the findings in the report, based on key White Paper categories:

- Progress has been made to address the **budgetary and personnel needs of the region's Ministries of Labor**. Over the period 2005 to 2010, all countries in the region except Guatemala increased their labor ministry enforcement budgets in real, inflation-adjusted terms, with significant increases in Costa Rica, the Dominican Republic and El Salvador. In general, where budgets increased, so did the number of labor inspectors and the number of workplace inspections. While the data do not provide direct evidence of the effectiveness of labor law enforcement, the increases do suggest greater capacity to achieve effective enforcement through inspections, which could lead to greater compliance through deterrence effects.
- Progress has also been made in some countries **to strengthen the judicial systems for enforcement of labor laws**. All countries have increased the number of judges and courts hearing labor cases. However despite some positive effects of the capacity building projects, judicial decision rates, the number of pending cases and the length of time required for case resolution have not yet significantly improved. Concerns also exist about the enforcement of judicial orders, particularly for the reinstatement of dismissed workers. While progress has been made in certain countries, significant problems remain in others for workers trying to access justice through the courts.

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<sup>1</sup> All *Verification Reports* can be found at:

[http://verificacion.oit.or.cr/index.php?option=com\\_content&view=article&id=114&Itemid=178](http://verificacion.oit.or.cr/index.php?option=com_content&view=article&id=114&Itemid=178)

- Progress toward the White Paper goal of addressing **gender and discrimination** issues is difficult to assess. Since 2005, the CAFTA-DR countries have conducted awareness raising and trainings on gender issues. However discrimination is often unreported and the measures taken to address these challenges vary across the region. The impact of activities to date remains difficult to ascertain.
- The **child labor** challenges facing individual CAFTA-DR countries varied considerably and this was reflected in the diverse goals set out in the White Paper for Costa Rica, the Dominican Republic, El Salvador and Guatemala. The countries have established roadmaps to combat child labor which include six focus areas – poverty, education, health, social protection, institutional coordination, monitoring and knowledge. Additionally, several CAFTA-DR countries have developed laws or regulations to better address child labor problems. Significant child labor challenges remain, however, including inadequate resources to address child labor, limited enforcement of child labor laws, slow implementation of the roadmaps and the limited extent of social programs to reduce child labor.
- Programs in the White Paper category, “**promoting a culture of compliance**” have focused on increasing civil society’s awareness of and ability to advocate for labor rights. All countries have implemented awareness raising campaigns about various labor laws and issues, using radio, television, public speakers and printed material, with more than 3.5 million educational products distributed and over nine million visits to a labor law website. Other projects worked directly with employers, labor unions and other organizations to train workers and employers. Programs have also fostered tripartite engagement (government, unions and employers) in meeting the White Paper goals. Nonetheless, it is clear that achieving a “culture of compliance” in the region will require greater efforts by the CAFTA-DR Governments and more work with employers and labor unions.

The report details the significant resources (over \$136 million) that the USG has contributed for labor capacity building activities under the Labor Cooperation and Capacity Building Mechanism of Chapter 16 in support of White Paper priority categories. These projects provided needed support to the CAFTA-DR countries’ government institutions, as well as to employers and workers, leading in some cases to improved workplace conditions and strengthened public agencies. (For a list of projects, *see* Annex B.) In most countries, however, despite the programs, workers continue to face systemic problems when trying to exercise their rights, particularly their rights related to freedom of association, collective bargaining and the right to strike. The challenges vary from country to country, including differences in enforcement, infrastructures and judicial systems. This report recognizes those countries that have dedicated resources and attempted to make progress in supporting worker rights and labor law enforcement, as well as pointing out areas where much work remains to be done.



The report also includes recommendations on how the USG can facilitate implementation of the recommendations contained in the White Paper, noting the critical factors to success, such as the economic development of a country, a government's political will, the context for sustainability, and coordination of programs. These factors are also reflected in the recommendations from the National Advisory Committee for Labor Provisions of U.S. Free Trade Agreements (NAC), an advisory body established to advise the Secretary of Labor on the labor provisions of U.S. trade agreements. The NAC's recommendations are also included in this report.

## LIST OF ACRONYMS AND ABBREVIATIONS CONTAINED IN THIS REPORT

ADR	Alternative Dispute Resolution
AFL-CIO	American Federation of Labor and Congress of Industrial Organizations
Agenda	Decent Work Hemispheric Agenda (2006 -2015)
ANEP	National Association for Private Companies (El Salvador)
CACIF	Coordinating Committee of Agricultural, Commercial, Industrial, and Financial Associations (Guatemala)
CAFTA-DR	The Dominican Republic –Central America –United States Free Trade Agreement
CSR	Corporate Social Responsibility
DOL	United States Department of Labor
FACA	Federal Advisory Committee Act
FTA	Free Trade Agreement
FTC	Free Trade Commission
ILAB	Bureau of International Labor Affairs, U.S. Department of Labor
ILO	International Labor Organization
ILWU	International Longshore & Warehouse Union (Costa Rica)
MOL	Ministry of Labor
NAC	National Advisory Committee for Labor Provisions of U.S. Free Trade Agreements
OTLA	Office of Trade and Labor Affairs, U.S. Department of Labor
SINTRAJAP	<i>Sindicato de Trabajadores de JAPDEVA</i> , Atlantic Port Workers’ Union (Costa Rica)
State/DRL	Bureau of Democracy, Human Rights, and Labor, United States Department of State
TCB	Trade Capacity Building
USAID	United States Agency for International Development
USG	United States Government
USTR	United States Trade Representative
Verification Report	International Labor Organization <i>Verification Report on the Implementation of White Paper Recommendations</i>
White Paper	<i>The Labor Dimension in Central America and the Dominican Republic. Building on Progress: Strengthening Compliance and Enhancing Capacity</i> , Report of the Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic (2005)

## INTRODUCTION

### Reporting Requirements under the CAFTA-DR Implementation Act

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) was approved by the United States Congress in 2005 through the CAFTA-DR Implementation Act. Reflecting the importance of the labor standards set out in Chapter 16 of the Agreement, Section 403(a) of the CAFTA-DR Implementation Act (codified at 19 U.S.C. § 4111(a)) includes a reporting requirement on labor issues. Specifically, it requires the President to submit a biennial report to Congress on the progress made by the CAFTA-DR countries in implementing (i) Chapter 16 (Labor) of the CAFTA-DR and Annex 16.5 (Labor Cooperation and Capacity Building Mechanism) and (ii) the recommendations in the April 2005 report of the Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic (hereinafter the “White Paper”). The President delegated this reporting function to the Secretary of Labor, to be carried out in consultation with the United States Trade Representative (USTR).

This is the second report prepared to fulfill Section 403(a) of the CAFTA-DR Implementation Act. Reflecting the requirements set out in 19 U.S.C. §4111(a), this report addresses the areas specified in the Act, both the general requirements regarding Chapter 16 and the White Paper, and the four content requirements summarized below (*see* Annex A for Congressional language):

- 1) **A description of the progress made** in achieving the goals of both the Labor Cooperation and Capacity Building Mechanism and the Labor Affairs Council, including a description of the capacity-building projects undertaken, funds received, and results achieved (i.e., outcomes) in each CAFTA-DR country;
- 2) **Recommendations** on how the United States Government (USG) can facilitate full implementation of the recommendations contained in the White Paper;
- 3) **A description of the work done** by the CAFTA-DR countries with the International Labor Organization (ILO) to implement the recommendations contained in the White Paper, and the efforts of the CAFTA-DR countries with international organizations, through the Labor Cooperation and Capacity Building Mechanism, to advance common commitments regarding labor matters;
- 4) **A summary of public comments** received on (a) the efforts made by the CAFTA-DR countries to comply with Article 16.5 of the agreement and to implement the White Paper recommendations; (b) efforts by the USG to facilitate full implementation of the White Paper recommendations; and (c) capacity-building efforts by the USG envisaged by Article 16.5 and Annex 16.5 of the Free Trade Agreement (FTA).

This report is divided into two main sections. The first reviews the implementation of Chapter 16 as it relates to the receipt and review of submissions under Article 16.4.3. It explores the first two labor cases received under Chapter 16, the efforts made through this process, and the status to date. It also looks briefly at the Labor Affairs Council and other engagement with the Ministries of Labor.

The second section examines the work done and the progress made in the CAFTA-DR countries to address the commitments made in the White Paper, including the key technical cooperation programs addressing these issues and implemented under the Labor Cooperation and Capacity Building Mechanism (Article 16.5 and Annex 16.5 of CAFTA-DR Labor Chapter). A complete analysis of work done and progress made under the White Paper categories is presented regularly by the ILO's *Verification Report on the Implementation of the White Paper Recommendations* (hereinafter *Verification Report*).<sup>2</sup> A comprehensive list of the 22 United States Government (USG)-funded technical assistance projects in the region is included as Annex B. This section also highlights trends and identifies significant issues in the region and in each country. It notes where progress has been made, where information is incomplete, and where issues still remain.

This report also includes recommendations on how the USG can facilitate implementation of the recommendations contained in the White Paper, noting the critical factors to success, such as the economic development of a country, a government's political will, the context for sustainability, and coordination of programs. These factors are also reflected in the recommendations provided by the National Advisory Committee for Labor Provisions of U.S. Free Trade Agreements (NAC). The NAC is an advisory body established to advise the Secretary of Labor on the labor provisions of U.S. trade agreements, with representatives from labor unions, the private sector, and the public. The NAC developed its recommendations on how the USG can facilitate full implementation of the White Paper, which are also included in their entirety in this report.

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<sup>2</sup> The *Verification Report* is issued approximately every six months. The ILO must allow approximately six months for data collection before it can begin to assemble the report and get tripartite consensus, which takes an additional six months. As a result, the report's data reflect a one-year delay. For the most recent report, data are current through the end of 2010. International Labor Organization, *Verification Report on the Implementation of the White Paper Recommendations in Central America and the Dominican Republic* [hereinafter *Verification Report*]; available from [http://verificacion.oit.or.cr/index.php?option=com\\_content&view=article&id=86&Itemid=181](http://verificacion.oit.or.cr/index.php?option=com_content&view=article&id=86&Itemid=181).

## **I. Chapter 16 (Labor) Implementation**

On August 5, 2004, the United States, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua signed the CAFTA-DR. Congress approved the agreement, and President Bush signed the CAFTA-DR Implementation Act into law on August 2, 2005.<sup>3</sup> Over the ensuing four years, the terms of the agreement entered into force in all signatory countries.

Chapter 16 (Labor) of the CAFTA-DR affirmed the shared commitment of its signatories to improving labor rights. Each country pledged to effectively enforce its labor laws and reaffirmed its obligations as a member of the ILO and its commitments under the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up* (1998).<sup>4</sup>

The Labor Chapter included several sections that implied follow-up action by the Parties. This section will look at two of the key processes established by the agreement – the public submission process and the Labor Affairs Council – and the developments in those two areas.

### **A. Submission Process**

The CAFTA-DR obligated the Parties to establish a submission process that allows stakeholders in the CAFTA-DR countries to have a voice and play a role in holding their countries responsible for the labor commitments made under the CAFTA-DR. Specifically, Article 16.4.3 states (emphasis added):

Each Party shall designate an office within its labor ministry that shall serve as a contact point with the other Parties, and with the public, for purposes of carrying out the work of the Council, including coordination of the Labor and Cooperation and Capacity Building Mechanism. Each Party's contact point *shall provide for the submission, receipt, and consideration of communications* from persons of a Party on matters related to the provisions of this Chapter, and shall make such communications available to the other Parties and, as appropriate, to the public. Each Party shall *review such communications, as appropriate, in accordance with domestic procedures*. The Council shall develop general guidelines for considering such communications.

In December 2006, the Department of Labor (DOL) issued a *Federal Register* notice setting out the process for the “submission, receipt, and consideration” of communications from the public. (See Annex C for the Office of Trade and Labor Affairs (OTLA)’s Procedural Guidelines). The Bureau of International Labor Affairs (ILAB) now has these guidelines available on its Web site in Spanish, French, and Arabic so that stakeholders in countries that are Parties to free trade agreements with the United

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<sup>3</sup> The legislative requirements of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act related to Chapter 16 implementation are available in Annex A.

<sup>4</sup> Dominican Republic-Central America-United States Free Trade Agreement, CAFTA-DR, ch. 16, August 5, 2004; available from <http://www.ustr.gov/trade-agreements/free-trade-agreements/cafta-dr-dominican-republic-central-america-fta/final-text>.

States that include labor commitments can be fully aware of the process and criteria for the submissions process.<sup>5</sup>

As the established Point of Contact (POC) for the United States, OTLA has received three submissions under the CAFTA-DR Labor Chapter, one concerning the Dominican Republic, one concerning Costa Rica and the third concerning Guatemala.

### **Dominican Republic Submission**

On December 22, 2011, OTLA received a submission from Father Christopher Hartley. The submitter alleges that the Government of the Dominican Republic's actions or lack thereof denied workers their rights under Dominican law relating to freedom of association, the right to organize, child labor, forced labor, the right to bargain collectively, and acceptable conditions of work in the Dominican sugar sector. On February 22, 2012, OTLA accepted the submission for review. OTLA is now in the process of conducting its review of the submission to determine its findings on the allegations in the submission, which it will present in a public report to the Secretary of Labor within 180 days, unless OTLA determines that circumstances warrant an extension.

### **Costa Rica Submission**

On July 20, 2010, OTLA received a submission from the International Longshore & Warehouse Union (ILWU) and the *Sindicato de Trabajadores(as) de JAPDEVA* (SINTRAJAP), Costa Rica's Atlantic port workers' union alleging Costa Rica's failure to effectively enforce its labor laws by validating the results of an allegedly fraudulent election for a new SINTRAJAP board. On August 25, 2010, the Costa Rican Supreme Court ruled to reinstate the ousted board of SINTRAJAP and nullified all actions taken by the recently elected board.<sup>6</sup>

On January 21, 2011, new SINTRAJAP board elections were held without incident, re-electing the reinstated board by a large margin. On April 13, 2011, the submitters notified DOL of their decision to withdraw the submission. Due to the withdrawal, OTLA closed the case and so informed the submitters and the Government of Costa Rica.

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<sup>5</sup> U.S. Department of Labor, Bureau of International Labor Affairs, Office of Trade and Labor Affairs, *Procedural Guidelines and Public Submissions*; available from <http://www.dol.gov/ilab/programs/otla/proceduralguidelines.htm>. Attached to this report as Annex C is the English version of the guidelines.

<sup>6</sup> In order to monitor the events resulting from this decision, OTLA extended the timeframe for its decision whether to accept the submission for review until April 2011. OTLA informed the Ministry of Labor and the ILWU of the extension on September 3, 2010.

## Guatemala Submission

On April 23, 2008, the AFL-CIO and six Guatemalan worker organizations filed a public submission with OTLA alleging that the Guatemalan Government was failing to effectively enforce its labor laws with regards to the right of association, the right to organize and bargain collectively, and acceptable conditions of work. On June 12, 2008, OTLA formally accepted the submission and began a six-month review process.

During its review process, OTLA examined extensive documentation provided by the submitters and by the Government of Guatemala and conducted two visits to Guatemala where USG officials met with workers, union leaders, employers, government representatives, and other organizations in Guatemala. Based on its findings, OTLA issued a public report on January 15, 2009, finding significant and systemic gaps in Guatemala's enforcement of its labor laws. These included, for example, labor inspectors' failure to obtain access to work sites and failure to enforce court orders for reinstatement and payment of back wages.<sup>7</sup>

The report recommended concrete actions the Government of Guatemala could take to remedy the problems and proposed that the USG should reassess progress after six months to determine the appropriate next steps. DOL, along with USTR and the Department of State (State), worked over the next few months with the Government of Guatemala to attempt to resolve the problems raised in the report.

The GOG made limited progress on specific issues. For example, on July 15, 2009 the USG received an update from the Government of Guatemala that workers were reinstated at two of the apparel factories where violations had been alleged. Nevertheless, the USG determined that the Government of Guatemala's actions were insufficient to address the apparent systemic failures in the enforcement of its labor laws. As a result, on July 30, 2010, Secretary of Labor Hilda Solis and U.S. Trade Representative Ron Kirk requested cooperative labor consultations under the CAFTA-DR Labor Chapter.

Consultations were held in Guatemala City on September 8 and 9, 2010, and on December 6, 2010. The discussions failed to resolve the USG's concerns regarding the apparent systemic failures in the enforcement of Guatemala's labor laws.

On May 16, 2011, the USG requested a meeting of the Free Trade Commission (FTC) pursuant to Chapter 20 (Dispute Settlement) of the CAFTA-DR to discuss the Guatemalan Government's failure to effectively enforce its labor laws. The FTC was held on June 7, 2011, and the United States and Guatemala worked intensively to reach agreement on adequate enforcement plan to address the USG's concerns, but the Parties failed to reach such an agreement. Consequently, on August 9, the USG requested the establishment of an arbitral panel.

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<sup>7</sup> U.S. Department of Labor, Bureau of International Labor Affairs, Office of Trade and Labor Affairs, *Public Report of Review of Office of Trade and Labor Affairs U.S. Submission 2008-01 (Guatemala)*, January 16, 2009; available from <http://www.dol.gov/ilab/media/reports/otla/20090116Guatemala.pdf>.

The USG is committed to ensuring that its trade partners uphold their commitments under the Labor Chapter of the CAFTA-DR. The agreement promotes and prioritizes cooperation between the parties as the most effective and productive way to solve possible problems; however, when cooperative efforts fail to achieve adequate results, as they have in this instance, the agreement provides for the Dispute Settlement process in Chapter 20.

## **B. Labor Affairs Council**

Article 16.4 of the CAFTA-DR Labor Chapter obligated the Parties to:

[E]stablish a Labor Affairs Council, comprising cabinet-level or equivalent representatives of the Parties, or their designees. The Council shall meet within the first year after the date of entry into force of this Agreement and thereafter as often as it considers necessary to oversee the implementation of and review progress under this Chapter, including the activities of the Labor Cooperation and Capacity Building Mechanism established under Article 16.5, and to pursue the labor objectives of this Agreement. Unless the Parties otherwise agree, each meeting of the Council shall include a session at which members of the Council have an opportunity to meet with the public to discuss matters relating to the implementation of this Chapter.

On November 21, 2008, the Ministers of Labor of the CAFTA-DR countries met formally under Article 16.4 and established the Labor Affairs Council. In their joint statement, the ministers reaffirmed the importance of complying with the commitments made under the CAFTA-DR Labor Chapter. (*See* Annex D for the Joint Statement from the Labor Affairs Council meeting). In addition, a public session was held with the participation of civil society, including labor union and employer organizations.

Between meetings of the Labor Affairs Council, regular engagement or the resolution of disputes is conducted at technical levels. For this reason, Article 16.4.3 calls for the Parties to designate offices as the Points of Contact for matters related to the Labor Chapter and each Ministry of Labor has done so. The Points of Contact carry out the work of the Council, including coordination of the Labor Cooperation and Capacity Building Mechanism. The USG has contributed \$136 million for labor capacity building activities to support the implementation of the White Paper recommendations described in section II. ILAB has engaged in technical-level meetings with the various CAFTA-DR Ministries of Labor (MOLs) and their Points of Contact.<sup>8</sup> These meetings often focused primarily on the technical cooperation efforts to address issues outlined in the White Paper and needs noted by the MOLs themselves. In addition, bilateral meetings have been held to discuss issues specific to enforcement efforts and/or cooperative activities. DOL, and other USG staff, have undertaken numerous trips to the region to meet with project implementers as well as government representatives to review and improve

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<sup>8</sup> The Inter-American Development Bank hosted regular meetings of the Vice Ministers of Labor and Trade of the region. DOL regularly held meetings with representatives from the labor ministries who came to Washington, D.C.



technical cooperation efforts. Most recently, on November 2, 2011, ILAB Deputy Undersecretary Sandra Polaski met with the Ministers from the CAFTA-DR countries during the Inter-American Conference of Labor Ministers to discuss a range of issues related the implementation of labor law, enhancement of labor protections, and technical cooperation.<sup>9</sup>

Engagement of the Parties through the Labor Affairs Council recognizes the importance of the labor provisions of the CAFTA-DR and provides input and feedback on the technical assistance discussed in the second section of this report. Continued dialogue through the Labor Affairs Council and the Points of Contact ensured that the countries had input and ownership of the CAFTA-DR Trade Capacity Building (TCB) funded programs implemented under the Labor Cooperation and Capacity Building Mechanism of the CAFTA-DR Labor Chapter and that the programs met the needs that the countries identified within the White Paper categories. This dialogue on the framework of the White Paper allowed the USG to develop programs that took account of USG priorities as well.

### **C. Free Trade Commission Meeting (FTC)**

In addition, an FTC meeting of the CAFTA-DR countries was held in El Salvador on February 23, 2011. Representatives from all of the Parties met to review implementation and administration of the agreement, including issues pertaining to labor chapter implementation. The Parties established the rules of procedure and the code of conduct that will govern disputes under the Dispute Settlement Chapter. The Parties also established rosters of arbitral panelists to hear and rule on potential disputes, including a specific labor roster.

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<sup>9</sup> Secretary of Labor Hilda L. Solis also met with the Ministers of Costa Rica, Guatemala, Nicaragua, El Salvador, the Dominican Republic during the Inter American Conference of Ministers of Labor held in October 2009. In addition, DOL has met with several of the Ministers or their designees in Washington, D.C.

## **II. Assessment of White Paper Implementation and Capacity Building in the CAFTA-DR Countries**

### **A. Improving Labor Rights: State and Civil Society**

While the CAFTA-DR countries have adopted legislation guaranteeing the basic rights of workers, workers are often unable to benefit from these legal rights. In general, labor rights can be addressed in three ways: through a government-led enforcement action, such as a labor inspection or court order; through a complaint-driven process, in which workers or their representatives identify compliance problems; and through employer voluntary compliance.

The USG-funded CAFTA-DR labor technical assistance projects under the Labor Cooperation and Capacity Building Mechanism of the CAFTA-DR Labor Chapter seek to improve the implementation of existing legislation using each of these mechanisms. Some projects provide the MOLs and the labor courts training and infrastructure to improve inspections and set standards that are enforced in a transparent and consistent manner. Other projects help workers and the organizations that represent them to increase their understanding and ability to advocate for workers' rights. Still other projects work to help employers and employer organizations to better understand and comply with labor norms by raising awareness, strengthening social dialogue, or promoting good corporate behavior. (For a list of projects, see Annex B).

### **B. The White Paper**

In 2003, prior to the ratification of the CAFTA-DR, the ILO published a document entitled "*Fundamental principles and rights at work: A labor law study of Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua*" that reviewed the state of labor regulations and their enforcement. Central American and Dominican Ministers of Labor met in July 2004 and adopted the document as a basis for future action. This ILO study indicated that the labor laws of the countries were largely in conformity with the fundamental ILO obligations and that the larger concern was with regard to the issues of implementation.<sup>10</sup> The Ministers of Labor and Trade instructed their Vice-Ministers to establish a working group that would issue recommendations to enhance the implementation and enforcement of labor standards and strengthen the region's labor institutions.

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<sup>10</sup> International Labor Organization, *The Labor Dimension in Central America and the Dominican Republic. Building on Progress: Strengthening Compliance and Enhancing Capacity*, April 2005 [hereinafter *White Paper*]; available from [http://verificacion.oit.or.cr/images/pdf/ingles/white\\_paper.pdf](http://verificacion.oit.or.cr/images/pdf/ingles/white_paper.pdf). p. vii. For an examination of the baseline state of labor law compliance and capacity prior to the enactment of the White Paper recommendations, see International Labor Organization, *Baseline Report for the ILO Verification of the Compliance of White Paper Recommendations in Central America and the Dominican Republic*, San Jose, Costa Rica, August 2007 [hereinafter *Baseline Report*]; available from [http://dwt.oit.or.cr/index.php?option=com\\_docman&task=doc\\_download&gid=421&Itemid=40](http://dwt.oit.or.cr/index.php?option=com_docman&task=doc_download&gid=421&Itemid=40).

In 2005, this working group of Vice-Ministers met in Washington, D.C. to identify challenges to the effective implementation of labor laws and issue a report including recommendations on how to enhance the implementation and enforcement of labor standards and strengthen labor institutions in the region. The report produced by this working group is referred to here as the “White Paper.”<sup>11</sup> The purpose of the White Paper was to identify challenges to the effective implementation of labor laws and to make recommendations for how each of the CAFTA-DR countries could improve enforcement of labor laws and create a “culture of compliance.” To achieve this goal, the working group of Vice Ministers identified six priority areas related to effective implementation and capacity-building for labor matters. The priority areas were:

- (a) Labor law and implementation (with a focus on freedom of association, trade unions, and labor relations; and inspections and compliance)<sup>12</sup>;
- (b) Budgetary and personnel needs of the Ministries of Labor;
- (c) Strengthening the judicial systems for labor law;
- (d) Protections against discrimination in the workplace;
- (e) Worst forms of child labor; and
- (f) Promoting a culture of compliance.

From 2005-2010, the USG committed \$136 million for projects addressing White Paper priorities. This resulted in the development of 22 technical assistance projects that were administered through three USG agencies: DOL, the United States Agency for International Development (USAID), and the Department of State’s Bureau of Democracy, Human Rights, and Labor (State/DRL). An interagency group comprised of State, DOL, USTR, and USAID was established to develop projects, in consultation with the CAFTA-DR Governments, that would contribute to improvement in the priority areas and to allocate funding among these projects.

Two priority areas — labor law reform<sup>13</sup> and the eradication of the worst forms of child labor — did not receive funding through the interagency process. The White Paper noted that, in general, the CAFTA-DR countries’ Constitutions and laws protect the fundamental ILO commitments, with the ILO supervisory bodies suggesting improvement in the details of the laws and regulations. As the governments could independently pursue these already identified regulatory changes, the funding focused on the other categories. In addition, the White Paper itself noted that “the more important concerns relate to the improved application of the labor law,”<sup>14</sup> and therefore funding focused on achieving the White Paper goals by supporting the three pillars of effective enforcement and compliance discussed above.

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<sup>11</sup> International Labor Organization, *The Labor Dimension in Central America and the Dominican Republic. Building on Progress: Strengthening Compliance and Enhancing Capacity*, April 2005 [hereinafter *White Paper*]; available from [http://verificacion.oit.or.cr/images/pdf/ingles/white\\_paper.pdf](http://verificacion.oit.or.cr/images/pdf/ingles/white_paper.pdf).

<sup>12</sup> Although the White Paper discusses labor law reform and implementation, including compliance with the law, as one category, this report will address implementation under the theme to which it is most closely linked. For example, if the MOL of a country is responsible for enforcing compliance with particular labor laws, the enforcement of those laws will be discussed in the section on MOLs.

<sup>13</sup> Labor law implementation was addressed via funding for the other categories.

<sup>14</sup> White Paper, p. 7.

The funding for projects aimed at eliminating the worst forms of child labor was provided directly by DOL and totaled \$43.79 million from 2005-2010. Annex B provides a list of the CAFTA-DR labor projects, including these child labor projects.

**Table 1: Funding for Labor Technical Assistance Projects from 2005-2010 by White Paper Area (in millions of US Dollars)<sup>15</sup>**

White Paper Area	Agency in Charge of Funds			Total Funds	Percent
	DOL	USAID	State/DRL		
Labor Law	-	-	-	-	0%
MOL	\$23.75	\$3.00	-	\$26.75	19.6 %
Judicial	\$2.00	\$20.94	-	\$22.94	16.8 %
Discrimination	\$2.45	\$3.30	-	\$5.75	4.2 %
Child Labor	\$43.79	-	-	\$43.79	32.1 %
Compliance	\$19.94 <sup>16</sup>	\$2.00	\$15.16	\$37.10	27.2 %
<b>TOTAL</b>	<b>\$91.93<sup>17</sup></b>	<b>\$29.24</b>	<b>\$15.16</b>	<b>\$136.33<sup>18</sup></b>	<b>100 %</b>

### C. Progress Made by the CAFTA-DR Countries to Implement White Paper Recommendations

This section looks at progress made to address the issues identified in the White Paper from 2005-2010. As part of the Vice-Ministerial process that produced the White Paper, the ILO was asked by the CAFTA-DR countries to prepare both a baseline analysis of labor standards and to produce a biannual *Verification Report*. These reports were intended by the Vice-Ministers to monitor progress in the implementation of the White Paper commitments. They are the primary source for the analysis presented here.

This report also draws on information from a regional evaluation of the CAFTA-DR technical assistance projects conducted by Management Systems International (MSI) from January through April of 2011 (Report).<sup>19</sup> The multi-country evaluation looked at

<sup>15</sup> This table is based on the table found on page 8 of “CAFTA-DR Labor Capacity Building Evaluation,” Management Systems International (MSI), August 2011 [hereinafter MSI Report]. This table also incorporates new funding received after the evaluation was completed and includes child labor projects that were funded under separate appropriations. (See footnote 14).

<sup>16</sup> This includes \$1.38 million of direct appropriations to DOL for Worker Rights programs for the *Better Work Nicaragua* program.

<sup>17</sup> Of this total, \$46.76 million came from CAFTA-DR Trade Capacity Building (TCB) Funds.

<sup>18</sup> Of this total, \$91.16 million came from CAFTA-DR TCB Funds. Considering only the CAFTA-DR TCB funds, the percentage dedicated to each White Paper Area is: Labor Law – 0%; MOL – 29.3%; Judicial – 25.2%; Discrimination – 6.3%; Child Labor – 0%; and, Compliance – 39.2%.

<sup>19</sup> In 2010, DOL contracted MSI to conduct an evaluation of the entire set of labor projects implemented using CAFTA-DR Trade Capacity Building Appropriations from 2005 to 2010. The final evaluation was published in August 2011, and its results and findings have been incorporated into this report. The team interviewed 328 people and reviewed hundreds of pages of documents, including project documents, grant agreements, progress reports, strategic frameworks, monitoring plans, data tracking tables, and external project evaluations.

the effectiveness of the labor capacity building projects in the CAFTA-DR region. The evaluation team consisted of two independent evaluators with expertise in conducting midterm and final project evaluations of labor capacity building projects, labor justice, and child labor projects in Central America and the Dominican Republic. The international evaluators were joined by one local evaluator in each of the CAFTA-DR countries to provide additional insight.

The data provided in the following sections on CAFTA-DR Government activities and resources reflect the information available, and although not direct or complete indicators of improved enforcement, the information provides some indication of efforts and progress made toward White Paper goals.<sup>20</sup> This report does not purport to provide a complete analysis of progress made under the White Paper categories, which is done biannually in the *ILO Verification Report*.<sup>21</sup> Nor does it provide a comprehensive review of the 22 technical assistance projects in the region. (See Annex B). Rather, it seeks to highlight general patterns and identify significant issues in the region. It notes where progress has been made, where information is incomplete, and where issues still remain.

## **Labor Law and Implementation<sup>22</sup>**

As noted above, in 2003 the ILO observed that the Constitutions and laws of the CAFTA-DR countries already largely protected the fundamental ILO commitments. The subsequent White Paper sought to provide recommendations on “some detailed areas of the laws where ILO supervisory bodies [had] raised issues.”<sup>23</sup> These areas included, among others, laws and regulations affecting freedom of association, trade union formation, and labor relations. For example, they address issues such as the number of workers required to declare a strike or form a union, the ability of public sector unions to strike or collectively bargain, and the ability of federations to strike.

Two of the six CAFTA-DR countries, Nicaragua and Guatemala, had little or nothing to report in this area, for very different reasons. Nicaragua had addressed all of the ILO’s observations and concerns prior to publication of the White Paper and did not have any further recommendations for reform. Guatemala, on the other hand, “did not establish any White Paper Challenges or Recommendations on the issue of Legislation and its implementation: Freedom of association, trade unions, and labor relations.”<sup>24</sup> The

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<sup>20</sup> A significant challenge to any assessment regarding issues such as compliance with international standards on freedom of association and collective bargaining is the lack of tested measures for compliance, not only in the CAFTA-DR region but worldwide. ILAB has worked to develop such a set of indicators and continues to work with leading experts in the field to develop indicators that can measure progress on labor standards in a reliable and practical way. For a recent example, see Mark Barenberg, “Formulating and Aggregating Indicators of Labor Rights Compliance,” 2011; available from <http://www.dol.gov/ilab/programs/otla/elrcontracts.htm>.

<sup>21</sup> All *Verification Reports* can be found at:

[http://verificacion.oit.or.cr/index.php?option=com\\_content&view=article&id=114&Itemid=178](http://verificacion.oit.or.cr/index.php?option=com_content&view=article&id=114&Itemid=178).

<sup>22</sup> The *ILO Verification Report* describes this priority area as “Freedom of association, trade unions and labor relations.”

<sup>23</sup> *White Paper*, p. 8.

<sup>24</sup> *Verification Report* (January 2008), p. 172.

absence of recommendations for Guatemala on labor law reform, particularly in the area of freedom of association, is a significant omission of the White Paper.

Significant steps were taken in El Salvador, which had not ratified two ILO Conventions on core labor standards at the time the White Paper was drafted. El Salvador ratified both Convention 87 on Freedom of Association and Convention 98 on Collective Bargaining in August 2006. The two conventions entered into force in September 2007 and were then ruled unconstitutional for any public sector worker by El Salvador's Constitutional Court the following month. In May 2009, however, Article 47 of El Salvador's Constitution was amended to allow unions to form in the public sector.<sup>25</sup> It extended the right to organize, to collectively bargain and the right to strike to the public sector, with certain exceptions.<sup>26</sup>

A new law recently passed in Honduras raises possible issues related to freedom of association that were not identified in the original White Paper report, although it is too soon to determine the impacts of the law. The "National Plan for Hourly Employment," designed to generate employment through the promotion of temporary contract labor, passed on November 4, 2010.<sup>27</sup> While it reiterates that companies must comply with labor laws and cannot fire full-time employees to hire temporary workers, union leaders and others fear that companies might replace permanent workers with temporary contract workers in ways that may undermine the ability of workers to join a union or receive certain benefits, and eliminate workers' job security.<sup>28</sup> The ILO is reviewing the law to advise whether it contravenes any of the Conventions that Honduras has ratified.<sup>29</sup> According to the Honduran Constitution, international treaties, including ILO Conventions, supersede national law.<sup>30</sup>

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<sup>25</sup> *Verification Report* (July 2009), p. 161.

<sup>26</sup> *Verification Report* (December 2010), p. 37.

<sup>27</sup> Government of Honduras, *Programa Nacional de Empleo por Horas*, Legislative Decree 230-2010, *La Gaceta* N° 32358 (November 5, 2010). The regulations for this law (Secretary of Labor and Social Security Agreement STSS-002-2011) were published in *La Gaceta* N° 32436 on February 7, 2011. The text of the law and the regulations are available from <http://www.trabajo.gob.hn/organizacion/dgt-1/direccion-general-de-salarios/leyes-y-decretos/Gaceta%20No.%2032-358-%20Decreto%20No.230-2010%20Ley%20del%20Empleo%20Temporal.pdf/view?searchterm=gaceta> (law) and <http://www.trabajo.gob.hn/organizacion/dgt-1/direccion-general-de-salarios/leyes-y-decretos/Reglamento%20Programa%20Nacional%20Empleo%20por%20Horas.doc/view?searchterm=32-436> (regulations).

<sup>28</sup> U.S. Department of Labor, interviews conducted with Confederación Unitaria de Trabajadores de Honduras, Confederación de Trabajadores de Honduras, Central General de Trabajadores, Colectivo de Mujeres Hondureñas, Centro de Derechos de Mujeres, Centro de Solidaridad, and Coordinadora de Sindicatos Bananeros y Agroindustriales de Honduras, September 26-29, 2011, Tegucigalpa, Choloma, San Pedro Sula, and La Lima, Honduras.

<sup>29</sup> "En la mira Ley de Empleo por Horas en Honduras," *El Heraldo* (Tegucigalpa), June 7, 2011; available from <http://www.elheraldo.hn/Ediciones/2011/06/07/Noticias/En-la-mira-Ley-de-Empleo-por-Horas-en-Honduras>.

<sup>30</sup> Constitución de la República de Honduras (11 Jan 1982), Article 18.

## Ministries of Labor

Over the period 2005 to 2010, all countries in the region except Guatemala increased their labor ministry budgets allocated to labor law enforcement<sup>31</sup> in *real dollars*, despite cuts made after the global economic crisis in 2008. The percentage change is reflected in Table 2, below.

- **Costa Rica** increased its budgets for enforcement by over 72 percent;
- **The Dominican Republic** increased its enforcement budget by over 40 percent;
- **El Salvador** increased its enforcement budget by approximately 120 percent;
- **Honduras** increased its enforcement budget by 2 percent;
- **Nicaragua** increased funding to enforcement in the Ministry of Labor by about 14 percent;
- **Guatemala**, the only country that saw a decrease over the period, saw consistent declines across the period and ended 2010 with a budget for enforcement that was over 16 percent lower than that of 2005.<sup>32</sup>

**Table 2: Percentage Change in Ministry of Labor Enforcement Budget, in Real Dollars<sup>33</sup>**

	2006	2007	2008	2009	2010	Total Change 2005-2010
Costa Rica (CR)	0.5%	2.5%	4.5%	31.5%	21.8%	72.4%
Dominican Republic (DR)	25.2%	4.4%	3.7%	19.8%	-12.9%	41.4%
El Salvador (ES)	72.8%	24.8%	-1.0%	2.9%	n/a	119.7% (2005-2009)
Guatemala (GU)	0.7%	-5.9%	-8.6%	2.8%	-6.1%	-16.4%
Honduras (HN)	-5.9%	-0.7%	-0.2%	21.7%	-9.6%	2.6%
Nicaragua (NI)	4.6%	6.0%	12.7%	-8.3%	-0.6%	13.9%

Source: *Verification Report* (December 2010), pp. 101 (CR), 142 (DR), 178 (ES), 223 (GU), 266 (HN), 300 (NI).

Table 3 below presents the change in each MOL's labor budgets subject to White Paper verification<sup>34</sup> as a percentage of total government budgets.

- **Costa Rica, the Dominican Republic, and El Salvador** saw an increase in the relative amount of funding to the MOLs as a percentage of the respective national budget;
- **Nicaragua, Honduras, and Guatemala** saw declines of funding to their MOLs in relation to the national budget from 2005 – 2010.<sup>35</sup>

<sup>31</sup> The Verification Report analyzed each Ministry's budget to determine the total amount allocated to the enforcement of labor laws in each country. The Verification Report includes a detailed breakdown for each country's budget.

<sup>32</sup> *Verification Report* (December 2010), pp. 101 (Costa Rica, CR), 142 (Dominican Republic, DR), 178 (El Salvador, ES), 223 (Guatemala, GU), 266 (Honduras, HN), 300 (Nicaragua, NI).

<sup>33</sup> These figures represent the yearly change in the portion of the executed ministry budget subject to White Paper verification adjusted for national inflation based on national consumer price index figures.

<sup>34</sup> Budget areas subject to White Paper verification include labor regulation and inspection, monitoring and analysis, and related administrative support.

<sup>35</sup> *Verification Report* (December 2010), pp. 224 (GU), 266 (HN), 301 (NI).

**Table 3: Percentage of National Budget Dedicated to Labor (MOL Budget Subject to Verification)<sup>36</sup>**

	2005	2006	2007	2008	2009	2010
Costa Rica	0.17%	0.15%	0.18%	0.21%	0.22%	0.24%
Dominican Republic	0.10%	0.12%	0.14%	0.11%	0.13%	0.12%
El Salvador	0.13%	0.15%	0.22%	0.20%	0.20%	0.21%
Guatemala	0.12%	0.10%	0.10%	0.09%	0.09%	0.08%
Honduras	0.25%	0.26%	0.27%	0.24%	0.27%	0.20%
Nicaragua	0.18%	0.17%	0.17%	0.16%	0.13%	N/A

Source: *Verification Report* (December 2010), pp. 102 (CR), 143 (DR), 178 (ES), 224 (GU), 266 (HN), 301 (NI).

The *Verification Reports* also show a disparity between the national budget allocated to labor law compliance and the amount actually spent to execute this function. In Costa Rica, the Dominican Republic, El Salvador, Honduras, and Nicaragua the actual amount spent for labor law compliance was often lower than the percentage allocated in the country's initial budget.<sup>37</sup>

These figures are rough indicators of the relative investment of CAFTA-DR Governments made in the enforcement of their labor laws.

### *Inspectors and Inspections*

In general, where budgets increased, so did the number of labor inspectors and the number of workplace inspections they conducted. The table below presents the total number of trained labor inspectors conducting workplace inspections for the national ministry. Because of the different categories and responsibilities for inspectorate staff, the numbers do not allow a precise cross-comparison among the countries. For example, Guatemala included in its number of inspectors staff who are conciliators and other support staff.

<sup>36</sup> These figures represent the percentage of the national budget spent on labor-related activities (i.e., those subject to White Paper verification) in the Ministries of Labor. Budget areas subject to verification include labor regulation and inspection, monitoring and analysis, and related administrative support.

<sup>37</sup> *Verification Report* (December 2010), pp. 100 (CR), 142 (DR), 177 (ES), 222 (GU), 298 (NI). The figures for Honduras are from *Verification Report* (July 2008), p. 240. All countries spent less than the allocated budget in at least 5 of the 6 years, except in the case of El Salvador, which spent less than its allocated budget in 4 of the past 6 years.



**Table 4: Number of Labor Inspectors**

	2005	2006	2007	2008	2009	2010	Percent change 2005-10
Costa Rica <sup>38</sup>	90	90	88	90	93	101	+12.22%
Dominican Republic <sup>39</sup>	132	149	154	165	164	160	+21.21%
El Salvador	64	64	159	159	159	210	+228.1%
Guatemala <sup>40</sup>	n/a	257*	239*	189	128	119	-12.5%
Honduras <sup>41</sup>	117	117	118	120	117	118	+0.85%
Nicaragua	57	57	92	94	96	99	+73.7%

Source: *Verification Report* (December 2010), pp. 90 (CR), 135 (DR), 181 (ES), 212 (GU), 256 (HN), 301 (NI).

The increase in number of inspectors was often correlated with an increased number of inspections. Table 5 summarizes a few of the figures provided in the *Verification Report*. The first line includes the total number of workplace visits (initial and follow-up inspections) conducted by labor ministry inspectors each year. The second line is the number of recorded cases where action was taken against an employer found to be in violation of national labor law. The third figure given for each country (where available) is the percentage of the country's workforce whose employers were subject to inspection in a given year.

<sup>38</sup> If all personnel such as office directors, legal advisers, writ servicers, conciliators, and support staff are included, the total number of personnel is 172, 193 and 200, from 2008 through 2010, respectively.

<sup>39</sup> These numbers do not include inspectors designated as local labor representatives, who are delegated to perform the work of collective conciliation when considered necessary. If local labor representatives are included the number changes to 169, 187, 192, 202, 203, and 200, from 2005 through 2010, respectively.

<sup>40</sup> Guatemala includes in its number of inspectors: visiting inspectors, conciliation inspectors, and other functions that support inspection in both the head office and 21 regional offices. In 2006 and 2007, it only provided a total number, breaking it out by category 2008-2010. Only visiting inspector numbers are tallied in 2008-2010.

<sup>41</sup> There are a total of 137 posts for labor inspectors; however, only 118 of them are occupied by personnel who perform inspection functions.

**Table 5: Number of MOL Inspections Conducted, Number of Violations/Sanctions Imposed, and Percent of Labor Force Covered by Inspections**

	2005	2006	2007	2008	2009	2010	% Increase
<b>Costa Rica:</b> Total Number of Workplace Inspections <sup>42</sup>	10,769	9,145	7,874	8,651	11,476	14,005	30.0%
Number of Re-inspections	4,525	4,080	3,346	3,652	4,061	4,493	
Number of Violations Found <sup>43</sup>	5,052	N/A	3,776	N/A	N/A	N/A	
Percent of Labor Force Covered by Inspections	6.11%	4.94%	4.47%	4.12%	4.66%	4.07%	
<b>Dominican Republic:</b> Total Number of Workplace Inspections	46,867	58,394	79,484	85,265	86,816	86,253	84.0%
Number of Re-inspections	N/A	N/A	N/A	N/A	N/A	N/A	
Number of Violations Found	1,446	1,492	2,090	2,016	2,814	2,350	
Percent of Labor Force Covered by Inspections	11.0%	10.3%	9.2%	10.3%	8.1%	10.0%	
<b>El Salvador:</b> Total Number of Workplace Inspections	N/A	20,239	29,450	29,948	29,766	26,394	30.4% (2006 – 2010)
Number of Re-inspections	N/A	7,715	7,014	6,868	8,140	5,751	
Number of Fines Imposed on Employers	N/A	545	602	845	2,088	3,133	
Percent of Labor Force Covered by Inspections	2.54%	5.92%	11.89%	12.26%	7.36%	N/A	
<b>Guatemala:</b> Total Number of Workplace Inspections <sup>44</sup>	5,040	5,025	5,515	11,127	13,131	12,317	10.7% (2008 – 2010)
Number of Re-inspections	1,161	1,260	1,396	1,618	2,356	2,008	
Number of Violations Found	467	572	654	872	1,944	3,852	
Percent of Labor Force Covered by Inspections	1.03%	7.51%	15.5%	8.6%	N/A	N/A	
<b>Honduras:</b> Total Number of Workplace Inspections	11,520	15,949	14,723	17,392	15,277	14,355	24.6%
Number of Re-inspections	430	373	253	537	485	654	
Number of Sanctions Imposed on Employers	556	231	325	182	282	324	
Percent of Labor Force Covered by Inspections	0.9%	1.5%	2.8%	3.2%	3.6%	4.2%	
<b>Nicaragua:</b> Total Number of Workplace Inspections	2,409	3,601	4,383	6,716	7,629	8,433	250.1%
Number of Re-inspections	689	954	1,044	1,576	1,941	1,909	
Number of Sanctions Imposed	3	21	65	47	37	55	
Percent of Labor Force Covered by Inspections	6.22%	7.50%	9.9%	14.28%	10.94%	10.86%	

<sup>42</sup> The total number of workplace inspections includes inspections based on complaint, inspections ex officio, and re-inspections.

<sup>43</sup> The *Verification Report* uses slightly different units of measurement for this category. These are reflected in the chart. For example, Costa Rica, the Dominican Republic, and Guatemala record the number of violations found by inspectors without specifying whether sanctions were applied in response to those violations.

<sup>44</sup> The figures for 2005 – 2007 only represent inspections data from the Central Office in Guatemala City. The number of inspection visits to workplaces, number of violations found, and percent of labor force covered by inspections were measured nationally only starting in 2008, and the percent change in number of inspections reflects only national data from 2008 onward to be consistent with the other countries.

Source: *Verification Report* (December 2010), pp. 92-93 (CR), 136-37 (DR), 180-81 (ES), 258-59 (HN), 303-304 (NI). Figures for Guatemala come from *Verification Report* (January 2008), p. 177-78, and *Verification Report* (December 2010), p. 216.

Overall, this information suggests varying results:

- **El Salvador** had a large increase in the number of inspectors and an increase in the number of inspections. Most significantly, the number of fines imposed increased by around 600 percent. In 2006 there were 20,239 inspections conducted, and 545 fines imposed. *In 2010 there were 26,394 inspections conducted, and 3,133 fines imposed.* This suggests greater sanctioning of employers for violations found.
- In **Costa Rica**, budgetary increases yielded modest increases in the numbers of inspectors and inspections. *Of the 7,874 inspections conducted in 2007 (last year with these data) there were 3,776 violations found, the highest number of violations detected in the region. Costa Rica also had the highest number of re-inspections relative to total number of inspections, with 4,493 of 14,005 in 2010.*
- In the **Dominican Republic**, the budget increase contributed to substantial increases in the number of inspections conducted. This also resulted in an increase in number of violations found. *Of the 86,253 inspections conducted in 2010, inspectors found 2,350 violations.*
- In **Nicaragua**, a small increase in budget and a large increase in number of labor inspectors contributed to the greatest increase in the number of labor inspections in the region. At the same time, Nicaragua had the lowest number of sanctions. *Of the 8,433 inspections conducted in 2010, only 55 sanctions were imposed.*
- Although **Honduras** saw no change in the number of inspectors, there was an increase in the number of inspections. At the same time there was a decrease in the number of sanctions applied. *Of the 14,355 inspections conducted in 2010, only 324 sanctions were imposed on an employer.*<sup>45</sup>
- **Guatemala** provides no data for national inspections for the first few years and the data is insufficient to provide any analysis over time.

Costa Rica, the Dominican Republic, and Guatemala record only the number of violations found by inspectors without specifying whether sanctions were applied in response to those violations. For several countries, no information is available in the *Verification Report* confirming the actual enforcement of sanctions against employers. This is particularly salient in Guatemala, where inspections cannot result in a sanction against an employer without the assistance of the courts.

The White Paper does not analyze the size of the penalties in relationship to their ability to deter violations.

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<sup>45</sup> *Verification Report* (December 2010), pp. 92-93 (CR), 136-37 (DR), 180-81 (ES), 258-59 (HN), 303-304 (NI). Figures for Guatemala come from *Verification Report* (January 2008), p. 177-78, and *Verification Report* (December 2010), p. 216.

None of the above data offer firm evidence of the effectiveness of labor law enforcement. Effective enforcement requires that inspectors are thorough in monitoring for violations, pursue enforcement actions, and apply legal penalties to firms violating labor law. The increases, where they occurred, do suggest greater capacity to achieve effective enforcement.

### *Other Investments*

The USG funded six projects to support the development, implementation, and training on the use of electronic systems that manage and track inspections data. These systems are now installed and being used in the central offices of five of the CAFTA-DR MOLs and in 46 regional offices that are connected electronically to their respective central office for the first time. The two countries that disclosed information on data entered into the systems (El Salvador and Costa Rica) reported entering data for over 53,000 inspections.<sup>46</sup>

Programs to increase the level of training and professionalism of MOL inspectors were put in place in every country.<sup>47</sup> USG-funded projects helped the ministries of labor train approximately 5,800 staff on electronic systems, ethics codes, strategic sectors, gender discrimination, and other topics.<sup>48</sup> Examples of such trainings abound in the *Verification Report*.

The external evaluation conducted on the CAFTA-DR technical assistance programs noted that the quality and professionalism of inspections was increasing across the region. It also noted, however, that unions and other stakeholders complain that the quality of inspections has not improved, reflecting the challenging nature of analyzing the impact of inspections.<sup>49</sup>

Low salaries make it difficult to improve the effectiveness and ability of the labor inspectorate. In Nicaragua, inspectors earn, on average, \$218.89 per month.<sup>50</sup> In Guatemala, most labor inspectors earn around \$480 per month.<sup>51</sup> In Honduras, the average inspector salary is currently \$500-\$550 per month, although the Secretariat of Labor has requested an increase. If that increase is approved by Honduras' Congress, the

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<sup>46</sup> *Cumple y Gana III – Inspection Project* (31 Oct 2011) “Technical Progress Report II Semester 2010 – 2011,” pp. 2, 3, 6, 7. Nicaragua originally rejected a case management system and is now in the process of developing such a system.

<sup>47</sup> *Verification Report* (July 2010), pp. 15 (CR), 26-27 (DR), 39 (ES), 47 (GU), 60 (HN), 70 (NI).

<sup>48</sup> *Cumple y Gana III – Inspection Project* (31 Oct 2011). “Technical Progress Report II Semester 2010 – 2011,” Attachment “PMP Data Tracking Table,” pp. 5, 6, 8, 10-13 (2,343 trained); Michele González Arroyo and Claudia Ibarquén (14 December 2008), “Final Evaluation of the Labor Law Compliance Program in Central America and the Dominican Republic,” p. 18 (2,229 trained); *Strengthening Civil Service Systems in the Ministries of Labor in Honduras and El Salvador* (March 2010), “Technical Progress Report, Annex No. 1 PMP Data,” p. 12 (1,223 trained).

<sup>49</sup> *MSI Report*, pp. 31-32.

<sup>50</sup> E-mail, US Embassy Managua, November 17, 2011.

<sup>51</sup> E-mail from US Embassy Guatemala, citing interview with General Labor Inspector's office, November 16, 2011. Exchange rate calculated using <http://www.oanda.com/currency/converter/> on Nov. 17, 2011.

average will increase to around \$660 per month.<sup>52</sup> In El Salvador, the average inspector salary is \$715 per month.<sup>53</sup> These salaries must be evaluated in light of the minimum wage and cost-of-living in each country, however, many labor ministry officials and USG-funded projects have commented that a challenge to increasing inspector capacity is the low salaries many inspectors receive.<sup>54</sup> In general, high turnover, which can result from low salaries, makes any training program difficult. When MOL employees acquire valuable skills, they may leave for better-paying positions elsewhere.

One country deserves special recognition for its efforts to address the issue of low inspector salaries. Before 2006, inspector salaries in the Dominican Republic were approximately \$326 per month. After 2006, they were raised to \$979-\$1,136 per month, an increase of approximately 348 percent.<sup>55</sup> This, combined with training, may have contributed to the increased rate of detection of violations.

Larger budgets and technical cooperation have also increased MOL infrastructure. One USG-funded project provided 536 computers and 168 printers, as well as three pick-up trucks and one micro-bus to various labor ministries.<sup>56</sup> The ILO and independent observers note a general trend toward increasing institutional efficiency through the use of technology.<sup>57</sup>

#### *Areas for Improvement*

Due to weaknesses in labor law enforcement, many private firms fail to comply with labor laws and face no repercussions. In addition, the pressures on ministry officials to overlook violations can create a culture that tolerates illegal labor practices.

Some countries have provided increased resources, training, and infrastructure for their inspectorates. Unfortunately, other countries, most notably Guatemala, lag behind. The combination of inadequate budgets for the labor inspectorates, the inability to effectively sanction an employer, and the pressure to focus on job creation at the price of labor law enforcement, may contribute to distrust of the labor inspectorates, and allow employers to violate labor laws with little fear of labor inspections or any sanctions.

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<sup>52</sup> E-mail from US Embassy, Tegucigalpa, Nov. 19, 2011.

<sup>53</sup> E-mail, US Embassy, San Salvador, Nov. 16, 2011, citing interview with MOL Director of International Relations.

<sup>54</sup> *MSI Report*, p. 32.

<sup>55</sup> E-mail, Gavino Severino, *Cumple y Gana* Facilitator to Ana Aslan, Chief Technical Advisor for International Labor Organization Social Dialogue project, November 16, 2011.

<sup>56</sup> *Comply and Win (Cumple y Gana)* disposition of equipment list.

<sup>57</sup> *MSI Report*, p. 30. The *Verification Reports* provide specific examples for most of the CAFTA-DR countries in the detail tables, see e.g. *Verification Report* (December 2010), p. 257 (HN).

## Labor Courts

All countries have increased the number of judges and courts hearing labor cases. The information in the *Verification Report* varies by country and the system used. Therefore, the information is not directly comparable. Below are a few statistics from the information available:

- **Costa Rica** increased the number of labor judges “with single jurisdiction in labor” (labor-only courts), from 47 to 67, and their support personnel from 73 to 107. Of these, the number of second instance (appellate) judges remained the same, at ten judges. The total number of courts hearing labor cases increased from 105 to 112. Combined jurisdiction courts comprise most of the courts that hear labor cases (83 of the 98 lower courts and 12 of the 13 appellate courts). While the number of lower labor-only courts doubled, from 7 to 15, there remained one labor appellate court.
- The **Dominican Republic** increased the number of judges in courts “with single competence” in labor matters (labor-only courts), including both lower and appeals courts, from 57 to 65, and their support staff from 212 to 240. The total number of courts remained constant with 57 courts hearing labor matters since 2006. Courts that hear combined matters constitute 22 of the 45 lower courts and 5 of the 12 appellate courts. There was a 14 percent increase in the number of labor court judges.
- **El Salvador** reported 43 lower courts that hear labor matters, which include labor courts, courts of first instance, and civil courts, and 2 at the appellate level. There are 13 judges that hear only labor matters. No break down is available of the number of judges per year per type of court.
- **Guatemala** increased the number of labor courts from 38 to 53, with the greatest increase coming from labor-only courts, from 8 in 2005 to 22 in 2010.
- **Honduras** increased the number of judges in labor-only courtrooms from 16 to 18. Despite 3 labor-only lower courts and 35 mixed courts, 85-87 percent of all labor cases were filed with the labor-only courts. There were 7 appeals courts that heard labor matters, two of which are labor-only.
- **Nicaragua** increased the number of judges with full-time posts in single-jurisdiction labor courts from 6 to 13.<sup>58</sup>

There was an increase in the number of labor cases being filed with the courts in all CAFTA-DR countries over the years, illustrated in the following chart:

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<sup>58</sup> *Verification Report* (December 2010), pp. 109-110 (CR), 147-48 (DR), 190 (ES), 231 (GU), 272-73 (HN), 311 (NI).

**Table 6: New Cases in the CAFTA-DR Labor Courts, by Year**

	2005	2006	2007	2008	2009	2010
<b>Costa Rica<sup>59</sup></b>	<b>26,471</b>	<b>26,369</b>	<b>26,731</b>	<b>27,750</b>	<b>35,730</b>	<b>38,733</b>
1st Instance/Major Claims	10,940	12,098	13,658	11,339	14,167	16,887
1st Instance/Minor Claims	8,646	8,698	7,457	10,648	14,905	15,468
Labor Courts	6,097	4,533	4,727	4,843	5,534	5,353
Cassation Chamber	788	1,040	889	920	1,124	1,025
<b>Dominican Republic</b>	<b>17,746</b>	<b>18,557</b>	<b>20,178</b>	<b>21,207</b>	<b>21,502</b>	<b>22,626</b>
First Instance	14,005	15,669	16,959	17,185	17,543	17,329
Second Instance	3,741	2,888	3,219	4,022	3,959	4,709
Cassation	N/A	N/A	N/A	N/A	N/A	588
<b>El Salvador</b>	<b>7,703</b>	<b>5,946</b>	<b>5,835</b>	<b>6,778</b>	<b>10,253</b>	<b>9,336</b>
First Instance	6,711	4,843	4,701	5,676	8,883	7,288
Second Instance	884	1,031	1,005	1,010	1,258	1,741
Civil Chamber	108	72	129	92	112	307
<b>Guatemala</b>	<b>8,602</b>	<b>11,625</b>	<b>11,048</b>	<b>13,011</b>	<b>13,180</b>	<b>12,971</b>
First Instance	7,449	9,647	9,091	10,377	10,632	9,700
Second Instance	1,153	1,978	1,957	2,634	2,548	3,271
<b>Honduras</b>	<b>3,386</b>	<b>4,291</b>	<b>4,222</b>	<b>4,210</b>	<b>5,606</b>	<b>13,733<sup>60</sup></b>
First Instance	2,208	3,102	2,882	2,812	4,242	11,298
Second Instance	932	935	1,037	1,051	1,024	1,822
Cassation	246	254	303	347	340	613
<b>Nicaragua</b>	<b>3,312</b>	<b>3,510</b>	<b>4,573</b>	<b>4,262</b>	<b>4,834</b>	<b>4,912</b>
First Instance <sup>61</sup>	2,567	2,872	3,689	3,427	4,231	4,115
Second Instance	745	638	884	835	603	797

Source: *Verification Report* (December 2010), pp. 106 (CR), 148 (DR), 191 (ES), 232 (GU), 274 (HN), 312 (NI).

Unfortunately, in some of the countries, judges and courts were unable to keep up with the increase in cases filed. Below are a few trends:<sup>62</sup>

<sup>59</sup> In Costa Rica, the number of new cases includes cases that have been re-filed and judgments in execution for 2009 and 2010.

<sup>60</sup> According to the Honduran Judiciary's Judicial Automated Documentation and Information Center, the increase in the number of labor complaints from 2009 to 2010 resulted from minimum wage claims (*Verification Report* (December 2010), p. 273). Former President José Manuel Zelaya pushed a significant increase in the daily minimum wage on December 23, 2008 (*Acuerdo STSS-374-STSS-08* (23 Dec 2008), and *Acuerdo STSS-258-STSS-07* (26 Dec 2007) retrieved from <<http://www.trabajo.gob.hn/organizacion/dgt-1/direccion-general-de-salarios/decretos>> on 7 December 2011 under "Gaceta 2008" and "Gaceta 2009.") The increase was widely protested by the business sector during 2009. (*El Heraldo Online* (2 Feb 2009), "Empresarios hondureños paralizarán sus actividades," retrieved from <<http://archivo.elheraldo.hn/Ediciones/2009/02/05/Noticias/Empresarios-hondurenos-paralizaran-actividades>> on 7 December 2011).

<sup>61</sup> In Nicaragua, there are first instance "ad hoc" courts that do not process cases but only deliver rulings. These ad hoc courts' rulings were not included in the number of new cases.

<sup>62</sup> For complete definition of the different terms used and formulas to calculate the different rates, please see the *Verification Report* as referenced below.

- **Costa Rica** increased its decision rate in the lower, appellate, and cassation courts and decreased its backlog rate in the lower and appellate courts. Nevertheless, the average duration of a labor case also increased. In the lower courts, the average case duration went from 22 months and 3 weeks to 24 months, and it went from 5 months to 5 months and 1 week in cassation courts (data is not available for appellate courts).
- The **Dominican Republic** did not track decision or backlog rates. It lists the difference between the number of new cases and cases with final rulings. In 2010, there were 4,701 more new cases than cases with a final ruling. Over the five year period, this accumulated to a total of 36,114 more cases received than cases receiving a final ruling. In 2010, the Judiciary prepared a study on the duration of labor cases in the lower court, which found that 76 percent of the cases are decided in less than 180 days.
- **El Salvador** had a slight decrease in the backlog rates in its lower courts and cassation courts, with no net change in the appellate courts. It showed an increase in decision rates at all levels. The number of active files decreased from 11,932 to 7,030.
- **Guatemala** provides no data on case duration, decision times, or backlog rates.
- **Honduras** saw its decision rate significantly decline in the courts of both first and second instance and increase slightly in cassation. Not surprisingly, the backlog rates increased significantly in the first and second instance, with a slight decrease in cassation. This is particularly worrisome given that the number of new cases increased from 3,386 to 13,733 over the 2005-2010 period, while the number of resolved cases increased from 3,082 to 4,571. The average labor case duration increased from 10 months in 2005 to 15.5 months in 2010.
- **Nicaragua** did not provide data on decision backlog rates. The difference between new and decided cases jumped from 1,129 in 2005 to 8,807 in 2010, culminating in a total of 25,402 more cases received than decided over the five years.<sup>63</sup>

When evaluated in real terms, only the labor courts in Costa Rica and El Salvador have benefitted from increased budgets;<sup>64</sup> while others have faced significant cuts. Because labor cases can also be handled by regular civil courts, the decreases do reflect decreased budgets for all courts that hear labor cases. Additional resources provided to the civil courts are not captured in the chart below.

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<sup>63</sup> *Verification Report* (December 2010), pp. 107 (CR), 149 (DR), 191-92 (ES), 232 (GU), 276 (HN), 313 (NI)

<sup>64</sup> *Verification Report* (December 2010), pp. 112 (CR), 147 (DR), 194 (ES), 234 (GU), 272 (HN), 309 (NI).



**Table 7: Percentage Change in Budgets for Courts with Sole Jurisdiction<sup>65</sup> in Labor Matters  
(Adjusted for inflation using real 2010 currency).<sup>66</sup>**

	Change from 2006-2007	Change from 2007-2008	Change from 2008-2009	Change from 2009-2010	Overall Change from 2006-2010
<b>Costa Rica</b>	10.56%	17.14%	20.16%	5.45%	64.10%
<b>Dominican Republic</b>	-12.59%	0.89%	-1.39%	-5.93%	-18.20%
<b>El Salvador</b>	3.39%	-6.18%	2.47%	8.14%	7.48%
<b>Guatemala</b>	5.29%	4.68%	68.42%	-46.20%	-0.14%
<b>Honduras</b>	-5.74%	8.87%	18.12%	-19.31%	-2.20%
<b>Nicaragua</b>	10.57%	-19.78%	-4.73%	23.56%	-15.50%

Source: *Verification Report* (December 2010), pp. 100 & 112 (CR), 142 & 147 (DR), 178 (ES), 223 (GU), 272-273 (HN), 309 & 311 (NI).

#### *Other investments*

Three USG-funded projects have focused on improving the training of judiciary employees and improving the infrastructure and processes used in the CAFTA-DR countries' labor courts. These projects trained a total of 56 judges on such skills as oral trial techniques and case management.<sup>67</sup> They also provided training in international labor standards and laws, case preparation, legal writing, admission of evidence, and oral litigation to 727 judges, lawyers, and other legal representatives.<sup>68</sup> Twenty modern hearing rooms with audio and video systems have been installed across the region, and nine more are under construction.<sup>69</sup>

The evaluation of CAFTA-DR technical assistances projects prepared by MSI (*MSI Report*) also described a judicial and legal culture more aware of labor issues.<sup>70</sup> This change has produced new programs in the region's law schools and greater cooperation between educators and practitioners. Although many of these new programs and relationships were stimulated by USG-funded projects, they appear to have been integrated into both legal education programs and justice systems across the region. This suggests that the new programs and cooperation are a significant and sustainable change

<sup>65</sup> A court having sole jurisdiction over labor matters is one that focuses exclusively on labor issues rather than hearing a variety of civil cases, including labor cases.

<sup>66</sup> These figures represent the yearly change in the portion of the executed budget of courts with jurisdiction in labor matters, subject to White Paper verification and adjusted for national inflation based on national consumer price index figures.

<sup>67</sup> "USAID CAFTA Indicators" (31 Mar 2011).

<sup>68</sup> ILAB Technical Cooperation Summary for the project "Labor Justice Training in Central America" (2 Oct 2009).

<sup>69</sup> "USAID CAFTA Indicators" (31 Mar 2011).

<sup>70</sup> *MSI Report*, p. 31.

rather than a reaction to the funding available through the projects.<sup>71</sup> Nevertheless, long-term effects cannot be evaluated yet.

To alleviate the strain of severe caseloads, 5,994 judges, public defenders, and private attorneys have been trained in alternative dispute resolution (ADR), case management and labor law from 2007 to date. In addition, 60 union members and representatives from university clinics were trained in collective and interest-based bargaining across the region. Through ADR, 1,191 cases were resolved outside of the courtroom.<sup>72</sup> ADR can be a useful tool to reduce strain on court systems with case backlogs and may also allow workers and employers to come to a settlement faster than they would in the courts. To improve efficiency, USAID programs have capitalized on the already existing opportunities in the pre-trial and trial stages of the judicial process to expand the use of ADR.

USAID programs have also focused on improved efficiency in management of pre-trial and judicial processes by establishing case management systems. During fiscal year 2011, 15,253 labor cases were managed electronically using USAID-supported management and tracking methods, both for the pre-trial and trial stages.

#### *Areas for Improvement*

The data in the *Verification Report* reflect a significant increase in the use of the labor courts in all the CAFTA-DR countries. This increased use of the courts could reflect a positive trend of workers attempting to access their rights through the courts, or alternatively, an increased level of violations. The Dominican Republic and Nicaragua had increasing numbers of pending cases, and Honduras had a large increase in its backlog rate. Also, where reported, case duration has not decreased significantly.

The indicators presented above do not necessarily reveal the quality of judgments or efficiency of the courts. They do, however, illustrate that while some countries have made progress, work remains to tackle significant obstacles, such as case load and decision time, in the administration of labor justice.

Despite some gains and the positive effects of the capacity building projects, as noted earlier, decision rates, the number of pending cases, and the length of time required for case resolution have not yet significantly improved. It is also impossible to know the quality of the decisions issued from the data available. Given the size of the problem and the institutional reform required for an efficient labor justice system, the impact of the technical assistance projects has been limited. While progress has been made in certain countries, in others, sizable problems remain for workers trying to access justice through the courts.

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<sup>71</sup> See, e.g., the cooperative program between the Judicial School and the Supreme Court of Justice in Honduras. *Verification Report* (July 2010), pp. 61, 267-268 (HN).

<sup>72</sup> “USAID CAFTA Indicators” (31 Mar 2011).

Concerns also exist about the enforcement of judicial orders, particularly for the reinstatement of dismissed workers. In Guatemala, this is an ongoing problem. As far back as 2005, the White Paper noted that in Guatemala, “[d]espite judicial remedies for the dismissal of trade union members that include reinstatement, the judicial system has not effectively been able to implement such authority.”<sup>73</sup> In 2009, the ILO funded a study of non-compliance with reinstatement orders in cases of unlawful dismissals and forwarded it to the Supreme Court of Justice, but, according to the December 2010 *Verification Report*, “no relevant actions were recorded.”<sup>74</sup> This is a serious impediment for workers in Guatemala, where labor inspectors rely on the courts for their sanctions to be applied.

## **Gender and Discrimination**

Progress toward the White Paper goal of addressing gender and discrimination issues is difficult to assess. Discrimination is often unreported. The measures taken to address these challenges vary across the region. Since 2005, the CAFTA-DR countries have conducted awareness raising and trainings on gender issues. For example, the ministries of labor in Costa Rica and the Dominican Republic have offices dedicated to gender issues, which have sponsored numerous trainings and activities; the creation of such an office is pending in El Salvador.<sup>75</sup> Costa Rica, the Dominican Republic, and Honduras have also produced formal national plans to address gender issues, though it is too early to evaluate the resources and political will dedicated to their implementation.<sup>76</sup> Costa Rica has passed legislation addressing the rights of female domestic workers,<sup>77</sup> and El Salvador has dedicated 12 inspectors in the Ministry of Labor to gender discrimination.<sup>78</sup>

The one activity pursued by all the countries in this area involves raising public awareness through information campaigns, radio and/or television spots, and programs that reach out to employers and workers.<sup>79</sup> Clear indicators of the effectiveness of these campaigns and their attempts to change the culture of gender bias or discrimination against disadvantaged groups are difficult to find.

The USG allocated \$5.3 million for programs to address gender discrimination and other forms of discrimination in the workplace in CAFTA-DR countries. Projects worked to strengthen the ability of officials in the MOLs and labor courts to identify and respond to gender issues by training them on the application of anti-discrimination laws, developing tools for identifying discriminatory practices in the workplace, and sensitizing conciliators to gender issues in mediating conflict. Projects helped design protocols for

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<sup>73</sup> White Paper, p. 46.

<sup>74</sup> *Verification Report* (December 2010) p. 228. The report was delivered on March 12, 2010.

<sup>75</sup> *Verification Report* (December 2010), pp. 113-115 (CR), 151 (DR), 195 (ES). Guatemala’s existing National Office for Women has been expanded and undertaken new tasks in response to the White Paper goals. *Ibid*, p. 235.

<sup>76</sup> *Verification Report* (December 2010), pp. 113 (CR), 31 (DR), 65 (HN).

<sup>77</sup> *Verification Report* (July 2010), pp. 19-20.

<sup>78</sup> *Ibid*, pp. 42, 197.

<sup>79</sup> See *Verification Report* (December 2010), pp. 115-116 (CR), 151 & 153-154 (DR), 195-196 (ES), 235-236 (GU), 279 (HN), 315-316 (NI); *Verification Report* (July 2010), p. 155 (DR).

detecting and addressing gender discrimination and strengthened the offices focused on gender issues within public institutions. Projects also sought to ensure that media outreach and data tracking were used to increase the participation of women in their trainings and services. In addition, other projects funded under other White Paper categories incorporated activities to promote the leadership of women and marginalized groups.

USAID programs have given small grants to NGOs across the region to promote access to labor justice to vulnerable populations, including women who work in maquilas, domestic employees, persons with disabilities, and migrant workers.

### *Areas for Improvement*

The sustainability of efforts made in public institutions is contingent upon the CAFTA-DR countries' willingness to continue to invest in gender-focused offices and to train new employees on protecting and promoting the rights of women and other disadvantaged groups. In Honduras, stakeholders continued to report practices such as pregnancy testing, a clear indication of gender discrimination.<sup>80</sup> As noted, the impact of the activities to date remains difficult to ascertain.

### **Worst Forms of Child Labor**

The child labor challenges facing individual CAFTA-DR countries varied considerably, and this was reflected in diverse goals set out in the White Paper for Costa Rica, the Dominican Republic, El Salvador and Guatemala. The original White Paper report did not include specific recommendations to address the worst forms of child labor in Honduras and Nicaragua. CAFTA-DR countries, along with other Latin American countries, adopted the Decent Work Hemispheric Agenda (2006 -2015) (hereinafter the "Agenda") during the ILO 16<sup>th</sup> American Regional Meeting in 2006. The Agenda establishes the goal of eliminating the worst forms of child labor in the hemisphere by 2015 and all forms of child labor by 2020. To achieve this goal, CAFTA-DR countries have established roadmaps to combat child labor, which include six focus areas – poverty, education, health, social protection, institutional coordination, and monitoring and knowledge. Additionally, the CAFTA-DR countries have joined the Central American Parliament Commission on Women, Children, Youth and Family that supports

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80 The Asociación para una sociedad más justa (ASJ) reported pregnancy testing being used on workers, prompting them to successfully push for the STSS to include questions about the phenomenon in their inspections. (Interview held in Tegucigalpa on 9/27/2011). ASJ works largely with the security, cleaning/domestics, and fast food sectors. At a 9/28/2011 meeting with the Centro de Derechos de la Mujer (in SPS), specifically mentioned the increased use of pregnancy tests to work for a company, requiring blood and urine samples. At a 9/29 meeting with CODEMUH on 9/29 (Choloma), they noted that women are subject to very invasive health exams before being hired in the maquilas at company health clinics. They also mention that regular testing for pregnancy has become harder to detect as companies perform it during other screenings that the women have at the company clinics.

a regional Plan to Support the Prevention and Elimination of Human Trafficking and Commercial Sexual Exploitation of Children and Adolescents (2008-2010).

Since 2005, several CAFTA-DR countries have developed laws or regulations to better address child labor. New legislation was passed in Costa Rica, Guatemala, and Nicaragua that either facilitated criminal penalties for violations of child labor laws or created new standards protecting young workers.<sup>81</sup> These laws were supplemented by ministerial regulations relating to their implementation and enforcement. Since 2005, Guatemala has increased the age for compulsory education to 15 and has adopted a list of the worst forms of child labor. Similarly, El Salvador has increased the age for compulsory education to 17. Nicaragua issued regulations specific to the 2010-2011 coffee harvest prohibiting children under age 14 from working, protecting adolescents of legal working age and ensuring minimum wages for children of working age and their parents.<sup>82</sup>

El Salvador, Guatemala, and Honduras addressed child labor issues by working to increase school enrollment and introducing programs to subsidize low income families to prevent children from being pushed into the labor force. These programs, run jointly by the labor and education ministries, involve scholarships, vouchers, and public awareness programs.<sup>83</sup> In Honduras this approach produced a 13.9 percent increase in school enrollment and a measured decline of 2.3 percent in the numbers of working children.<sup>84</sup> Similarly, the Dominican Republic has expanded access to basic education through its Solidarity (*Solidaridad*) program, which includes a conditional cash transfer program that assists the families of poor children through the provision of funds and requires that parents protect their children from the worst forms of child labor.<sup>85</sup> Costa Rica implements the national conditional cash transfer program, “Let’s Get Ahead” (*Avancemos*), which encourages low-income families to keep their children in school and out of exploitative work.<sup>86</sup> Since 2005, the Government of Guatemala has operated educational programs such as Open Schools which provide educational opportunities to thousands of vulnerable children. A program to reduce the use of child labor in the fireworks industry in Guatemala was also undertaken. The Government of El Salvador has improved access to education by implementing alternative educational models and providing scholarships, meals, textbooks, and uniforms to school children. The Government of Nicaragua has supported the Coffee Harvest Plan (*Plan Cosecha de Café*)

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<sup>81</sup> See *Verification Report* (July 2010), pp. 21-22 (CR), 55-56 (GU), 73-74 (NI).

<sup>82</sup> U.S. Department of Labor, Bureau of International Labor Affairs, *2010 Findings on the Worst Forms of Child Labor* [hereinafter *TDA Report*], pp. 327 (GU), 257 (ES), 553 (NI); available from <http://www.dol.gov/ilab/programs/ocft/PDF/2010TDA.pdf>.

<sup>83</sup> *Verification Report* (July 2010), pp. 43-44 (ES), 55 (GU), 64 (HN).

<sup>84</sup> *Ibid*, p. 64.

<sup>85</sup> Government of the Dominican Republic, Written communication 2011, 14.

<sup>86</sup> U.S. Embassy- San Jose, *reporting, December 10, 2010*. See also U.S. Embassy- San Jose, *reporting, January 29, 2009*. See also Government of Costa Rica, *Programa Avancemos*, [cited November 2, 2011]; available from [http://www.imas.go.cr/prog\\_soc/beneficios\\_ind/ps-avancemos.html](http://www.imas.go.cr/prog_soc/beneficios_ind/ps-avancemos.html).

that aims to assist children whose parents work in the coffee harvest and improve educational opportunities for children on the coffee plantations.<sup>87</sup>

DOL's Office of Child Labor, Forced Labor, and Human Trafficking has supported regional or country-level projects to assist efforts in all CAFTA-DR countries to eliminate the worst forms of child labor. El Salvador, Guatemala and Nicaragua are currently participating in DOL-funded projects to reduce child labor.<sup>88</sup>

### *Areas for Improvement*

Significant child labor challenges remain across the region, such as inadequate resources to address child labor, limited enforcement of child labor laws, slow implementation of the roadmaps, and the limited extent of social programs to reduce child labor.

For example, in the Dominican Republic, officials consistently fail to impose penalties on employers using illegal child labor.<sup>89</sup> In Costa Rica, budget pressure has led to a decline in the ministerial resources and officials assigned to the issue.<sup>90</sup>

More information on government efforts and social programs to eliminate the worst forms of child labor can be found in the country chapters in DOL's *2010 Findings on the Worst Forms of Child Labor*.<sup>91</sup>

### **Promoting a Culture of Compliance**

Programs in the White Paper category, "promoting a culture of compliance" have focused on increasing civil society's awareness of, and ability to advocate for, labor rights. If successful, they increase employers' voluntary compliance with labor standards and workers' ability to press for their legal rights.

According to the *Verification Report*, Costa Rica, the Dominican Republic, El Salvador, Guatemala, and Nicaragua have implemented awareness raising campaigns about various labor laws and issues, using radio, television, public speakers, and printed material.<sup>92</sup> In addition, one USG-funded project, which worked with the MOLs, produced and

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<sup>87</sup> International Labor Organization –International Program on the Elimination of Child Labor (ILO-IPEC), *Síntesis: Diagnóstico de situación del trabajo infantil y sus peores formas en Nicaragua*, 2009, p. 19. See also ILO Committee of Experts, *Direct Request, Worst Forms of Child Labor Convention, 1999 (No. 182) Nicaragua (ratification: 2000)*, [online] 2009 [cited November 2, 2011]; available from <http://webfusion.ilo.org/public/db/standards/normes/appl/appl-displaycomment.cfm?hdroff=1&ctry=0440&year=2009&type=R&conv=C182&lang=EN>.

<sup>88</sup> Please see Annex A or <http://www.dol.gov/ilab/map/countries/map-cont.htm> for more information about the projects to eliminate child labor supported by DOL's Office of Child Labor, Forced Labor and Human Trafficking (OCFT).

<sup>89</sup> *Verification Report* (July 2010), pp. 32-33; *TDA Report*, pp. 231-235.

<sup>90</sup> *Verification Report* (July 2010), p. 119.

<sup>91</sup> See *TDA Report*.

<sup>92</sup> The USG-funded Comply and Win (*Cumple y Gana*) project reports supporting public awareness campaigns in all six of the CAFTA-DR countries.

distributed more than 3.5 million educational products on labor rights throughout the region. These included manuals, labor rights guides, publications on ILO conventions, labor law publications, road signs, bus stop signs, posters, calendars, leaflets, and CDs. (See Annex E for more details on the number of printed materials produced.) In addition, a Web site with information on each country's labor laws has been developed, with frequently asked questions for both workers and employers available. The site, [leylaboral.com](http://leylaboral.com), has received 9,088,528 hits since it launched in February 2005.<sup>93</sup>

In all of the CAFTA-DR countries, programs have fostered tripartite (government, unions, and employers) involvement in meeting the White Paper goals.<sup>94</sup> Such programs involve these stakeholders in discussing ways to address these challenging issues. This has resulted in the recent approval of new formulas to adjust national minimum wages by the tripartite Economic and Social Council in Honduras and the tripartite National Council of Salaries in Costa Rica. These new mechanisms add improvements in wages from productivity gains, not merely to adjust to higher prices.<sup>95</sup> Particularly in Honduras where the negotiation of the minimum wage has historically been a challenging political issue – often sparking strikes and protest – reaching a tripartite agreement on setting the wage represents a significant step forward. In Nicaragua, the creation of a National Labor Council, made up of national unions, was authorized by statute in 2005, and began meeting in 2010.<sup>96</sup> In addition, the Nicaraguan apparel sector has an active and representative tripartite organization that advances projects specific to the sector. Most notably, this tripartite dialogue has worked with the ILO Better Work program to launch *Better Work Nicaragua*. (See Annex F for a description of the Better Work program).

Projects have also provided direct training on labor rights to employers and workers. Costa Rica, the Dominican Republic, Guatemala, and Honduras have conducted diverse national programs described in the biannual *Verification Reports*.<sup>97</sup> During 2011, trade union capacity building efforts directly reached at least 6,100 workers in the region, affiliating new members, including informal workers in sectors not traditionally reached such as construction, street vendors, and domestic work. Local partners also used the training and mentoring received to successfully negotiate collective bargaining agreements, in one instance negotiating a 30 percent wage increase. In addition, partners were able to negotiate reduction of fines, and win reinstatements of workers fired for union activity and compliance with legally-mandated severance and benefits during factory layoffs.

Other projects worked with unions, agricultural workers, and other organizations to train workers and their organizations on ILO conventions, labor laws, and how to file a legal complaint. Over 96,000 workers have received free, confidential legal consultations to

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<sup>93</sup> *Ley Laboral*, <http://www.leylaboral.com>, reviewed on 22 November 2011.

<sup>94</sup> *Verification Report* (December 2010), pp. 12 (CR), 25 (DR), 35 (ES), 47 (GU), 60 (HN), 69 (NI).

<sup>95</sup> E-mail, Ana Aslan, Chief Technical Advisor, ILO Social Dialogue, November 16, 2011.

<sup>96</sup> *Verification Report* (December 2010), p. 326. In 2010, major steps were taken to set up the National Labor Council after considerable delay to move forward with the broader plans envisioned in 2005. After several meetings in 2010, the Council's agenda was approved in December 2010.

<sup>97</sup> The USG-funded Comply and Win (*Cumple y Gana*) project reports supporting numerous workshops and training programs in all six of the CAFTA-DR countries.

better understand their rights.<sup>98</sup> Of those, at least 42,000 workers have presented properly-prepared cases before the correct government agency with adequate legal representation to claim their rights.<sup>99</sup>

Several projects worked with employers to strengthen their Corporate Social Responsibility (CSR) programs. For example, Costa Rica developed a public policy on corporate social responsibility that was validated with the Ministry of Labor and representatives from civil society.<sup>100</sup> El Salvador has developed a CSR committee through the National Association of Private Companies (ANEP) that has implemented a CSR monitoring program in 58 companies (INDICARSE) and developed a strategic plan to develop and promulgate CSR strategies across the private sector.<sup>101</sup>

Some CSR and employer outreach programs have documented positive changes. For instance, in Costa Rica, a demonstration project focused on improving the storage and use of agrochemicals helped approximately 600 small farmers improve worker and family safety. The farmers began practices such as the separation of food from agrochemicals in storage areas; showering after agrochemical application; and washing work clothes separately from personal clothing during times of application. Projects have also used specific case studies to engage employers in executive education programs, and through regional publications.

#### *Areas for Improvement*

Building a culture of compliance is a difficult goal to measure. Three pillars must be in place: the government must take effective enforcement actions, the workers must identify violations and seek remediation, and employers must comply with the law. While the above sections have identified areas where progress has been made, they also identify areas where problems remain. The CAFTA-DR Governments, working with tripartite partners, must continue their commitment to improving in all of the White Paper categories to develop the desired “culture of compliance.”

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<sup>98</sup> *Todos y Todas Trabajamos – Everyone Works* (31 July 2011), “Technical Progress Report PMP Data Tracking Table”; “USAID CAFTA Indicators” (31 Mar 2011); *Campo a Campo – Farm-to-Farm Project* “Performance Indicators Summary Table FY 2011” (31 Oct 2011).

<sup>99</sup> *Todos y Todas Trabajamos – Everyone Works* (31 July 2011), “Technical Progress Report PMP Data Tracking Table”; *Campo a Campo – Farm-to-Farm Project* “Performance Indicators Summary Table FY 2011” (31 Oct 2011).

<sup>100</sup> *Verification Report* (July 2010), pp. 126, 129.

<sup>101</sup> *Verification Report* (December 2010), p. 207.



### **III. Recommendations on How the United States Government Can Facilitate Implementation of the White Paper**

When developing programs to support the White Paper recommendations under the CAFTA-DR Labor Cooperation and Capacity-Building Mechanism (Annex 16.5), several factors are important, such as the economic development of a country, a government's political will, the context for sustainability, and coordination of programs. Current USG programs attempt to incorporate these issues through a variety of mechanisms.

For example, the USG held various meetings with country counterparts during the development of technical assistance projects and throughout their implementation. Design or scoping visits have been conducted to assess the project viability. Donor coordination meetings have been convened by the labor officers of the U.S. embassies in several CAFTA-DR countries, such as Nicaragua and Costa Rica, to try to facilitate information sharing and leveraging of project resources and strategies.<sup>102</sup> Furthermore, USDOL conducts regular monitoring and evaluation of its projects to ensure effective implementation. The USG will continue to seek ways to engage with our CAFTA-DR counterpart countries and stakeholders through these and other mechanisms, while taking the above factors into consideration.

One challenge in facilitating the implementation of the White Paper is the lack of clear and objective measures of progress. While the periodic editions of the *Verification Report* provide updates for each country, noting progress on each country's work plan, the information provided does not directly measure impact and is sometimes incomplete or inconsistent. Large informal sectors in the CAFTA-DR countries and weak Ministry of Labor infrastructures further limit the ability to monitor progress. USDOL has helped the labor ministries develop case management systems that, if sustained over time, can help measure and report on progress and target enforcement efforts; however, further work remains to develop and implement indicators that can be effectively used in such a context.

In order to further strengthen this report's recommendations, USDOL turned to its National Advisory Committee for Labor Provisions of U.S. Free Trade Agreements (the "NAC").<sup>103</sup> The mandate of the NAC is to provide advice to the Secretary of Labor, through ILAB, on the implementation of all of the labor chapters of U.S. FTAs.<sup>104</sup> The NAC is comprised of twelve members: four representing the labor community, four representing the business community, and four representing the public. These members are well situated to provide additional direction and advice on how the USG can facilitate the implementation of the White Paper. At its August 25, 2011, meeting, the NAC

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<sup>102</sup> *MSI Report*, p. 11.

<sup>103</sup> U.S. Department of Labor, "National Advisory Committee for Labor Provisions of U.S. Free Trade Agreements," *Federal Register* 76, no. 48, 13436 (March 11, 2011); available from <http://www.mspb.gov/netsearch/viewdocs.aspx?docnumber=585141&version=586894&application=ACR> *OBAT*.

<sup>104</sup> *Ibid.*

formed a subcommittee to draft recommendations on how the USG can facilitate implementation of the White Paper. The recommendations of that subcommittee were approved by the full committee at its meeting on October 13, 2011, and are reproduced in their entirety in Text Box 1.

In its recommendations, the NAC raises several aspects the USG should address in the future. These include identifying clear measures of progress that can be compared to benchmark indicators, particularly in areas where data is available, and that USG should support the additional collection of other data. They also note that these indicators of progress should be placed in the context of a development framework for the region. This will help identify “best practices” that can be applied to other CAFTA-DR countries.

This report has identified areas for improvement for each of the White Paper goals. In most cases, the external evaluations conducted on the CAFTA-DR technical assistance programs noted various projects or programs that may have helped individual workers, organizations or enterprises, however, it is clear there is a lack of firm evidence upon which to evaluate the effectiveness of attaining the long-term White Paper goals in a sustainable manner. Given the size of the problems and institutional reforms needed, renewed efforts will be needed to address not only short-term solutions, but improved and transparent reporting of information related to the White Paper goals and lasting reforms which will be tractable, measureable, and sustainable.

Another useful NAC recommendation is for the USG to seek to enhance CAFTA-DR ownership and responsibility for full implementation of their White Paper goals. They note that in supporting the efforts of the CAFTA-DR countries, the USG needs to better coordinate its technical assistance efforts among USG funding entities. Efforts to address these recommendations are noted above, and the USG supports continued efforts to coordinate and engage during the development and implementation of its programs.

**Text Box 1: Recommendations of the National Advisory Committee  
for Labor Provisions of U.S. Free Trade Agreements**

**Overview**

Since the publication of the White Paper, the U.S. Government has worked closely with CAFTA-DR Governments to facilitate progress towards White Paper goals. Approximately US\$136.33 million dollars have been spent in six White Paper areas. As acknowledged in the January 14, 2009 First Biennial Report submitted to Congress, continuing projects have successfully targeted tens of thousands of children to remove and prevent them from the worst forms of child labor, improved the capacity of labor ministries to track and address cases, and have made progress towards facilitating a culture of compliance among CAFTA-DR countries. Furthermore, governments have met many of the legislative goals for freedom of association and collective bargaining.

Nevertheless, the ILO Verification Reports regarding White Paper implementation and other evaluations suggest that full implementation remains elusive (The ILO's "Verification Report on the Implementation of the White Paper Recommendations," most recently for February 2010-July 2010, and the August 9, 2011 "CAFTA-DR Capacity Building Evaluation" report). Concerns about labor law implementation (including freedom of association) remain particularly salient. As the initial wave of funding expires, and expectations for future funding are lower, raising the efficiency and effectiveness of program dollars is increasingly important.

United States Secretary of Labor, Hilda Solis, recently re-established the charter for and appointed members to the National Advisory Committee for Labor Provisions of U.S. Free Trade Agreements. At its initial meeting in August, this committee decided to devote some time to generating "(r)ecommendations on how the USG can facilitate full implementation of the recommendations contained in the White Paper" as required of DOL by the Congress (19 U.S.C. § 4111: US Code – Section 4111: Periodic reports and meetings on labor obligations and labor capacity-building provisions). The committee's recommendations cover both "big picture" issues as well as some program-specific recommendations and are presented below in roughly that order.

**A. Progress in a broader development context: theory, baselines, and indicators**

Raising labor standards compliance through trade agreements is a goal that is perhaps best evaluated within a broader view of development. As a long-run concern, it is important to place progress and evaluation in the context of a development framework. One of the first steps towards reaching this goal in the context of the White Paper is to try to identify clear measures of progress that can be compared to benchmark indicators. The committee recognizes current and previous work by DOL and recognizes the difficulty in producing measures of several of the key areas of White Paper recommendations. For others that can be more easily measured, such as the incidence of child labor, labor cases, and domestic capacity (such as number of hours spent monitoring labor law violations); however, the committee supports using available data, and supporting the collection of additional data, that would help evaluate specific White Paper goals and their potentially broader effect on the rest of society. When successful, such indicators should help identify "best practices" that can be applied to other member countries.

**B. Fostering Domestic Agency and Political Will**

The United States Government has worked closely and collaboratively with governments of the region as part of the process of implementing the recommendations in the White Paper. The committee feels that CAFTA-DR countries need to retain ownership of the White Paper recommendations and that each country needs to be responsible for the full implementation of the recommendations for their country. There seems to be a clear need for USG support for the White Paper recommendations to be better coordinated, based on country needs and priorities, and focused on developing the necessary institutions and processes to help each country effectively implement and consistently enforce their national labor law. While each country has established a work plan and identified priorities, the committee recommends that country representatives should play a more active role in designing projects and selecting implementing organizations.

Such representation might start with, and draw from, a national committee (for each CAFTA-DR country) that follows the tripartite structure employed by the ILO-International Finance Corporation Better Work Program. Such a committee should have representation from government, the private sector, and worker organizations (including representation from civil society) and might be convened by the State Department. These committees should increase the efficacy of program design and implementation by recognizing linkages across White Paper priority areas. One specific way to increase such inclusion would be to support "design visits" prior to the finalization of proposal solicitation. These visits have worked in the past, and might continue to prove to be an effective way to increase stakeholder participation.

A larger role for partner countries in designing projects should have three key benefits. First, it would increase the sense of agency of each country and therefore have a positive effect on political will. Second, it should increase the

efficacy of U.S. supported programs if country representatives have more information about the relevant obstacles to White Paper goals and can help develop country-specific indicators of progress. Third, it would help reduce redundancy across USG-supported programs because the country representative would be a point person for program selection. Agency, efficacy, and reduced redundancy are increasingly important as available program funding falls.

Concerns about political commitment within the CAFTA-DR countries continue to emerge with regards to White Paper goals. At a minimum, the USG may consider withholding technical assistance without sufficient evidence of political will (as measured by budget allocations or other tractable metrics). While not necessarily prescriptive, the committee recognizes that political will is a necessary condition for progress towards White Paper goals, which implies that the reasonable expectation of success of program funding where political will is insufficient is greatly diminished.

### **C. Sustainability**

As acknowledged in the January 14, 2009 First Biennial Report submitted to Congress, CAFTA-DR Governments have also made progress toward drafting and enacting labor legislation and reform to bring labor codes in line with the goals identified in the White Paper. Evaluation reports and popular sentiment include concerns about program sustainability. Many programs that have been funded and carried out with the goal of advancing White Paper goals may not have any lasting impact unless they explicitly include provisions for fostering sustainability. Obstacles to sustainability include insufficient time to implement the intervention, changes in government personnel, lack of institutional will (or budget), and the creation of new structures or services without a sustainable funding source (Taken from the CAFTA-DR labor capacity building evaluation, p. 36). As the current wave of funding winds down, the committee recommends emphasizing the importance of taking steps to foster sustainability for current programs. In addition, the committee recommends that sustainability be given a priority status in criteria for funding future programs under the reasoning that funding a short-term program with no permanent impact is an inefficient use of scarce funds. One specific way to support sustainability would be to support programs that strengthen stakeholder capacity.

### **D. USG Coordination and Integration**

Both the CAFTA-DR Labor Capacity Building evaluation and committee members raised concerns about the fractured way that program funds are allocated (through the Department of State and based on topic area). While recognizing some strengths of this approach, the committee recommends exploring the possibility of expanding allocation decision making towards a joint task force with representatives from USAID, Labor, and State. Such a taskforce should include experts outside these agencies to strengthen cooperation and program efficacy. This approach would have the advantages of reduced redundancy of program efforts, the possible establishment of shared criteria (for program selection and evaluation), and possibly a more efficient allocation based on full information of each agency's full portfolio of talent.

### **E. Specific Short-run Concerns**

The ILO Verification Report consists of a periodic review of progress towards White Paper goals and includes specific suggestions by country and topic area that represent immediate "next steps" to resolve specific issues. The committee recognizes and supports these "short-run" recommendations as important steps to make progress towards White Paper goals. The committee reiterates, however, that addressing the long-run and medium-run concerns above are very important for achieving long-run improvements in labor conditions in CAFTA-DR countries.

#### **IV. Summary of Public Comments Received in Response to DOL's *Federal Register* Notice**

This section summarizes comments submitted in response to DOL's April 13, 2011, notice in the *Federal Register*<sup>105</sup> which requested comments on the labor capacity-building efforts made under the Labor Chapter and Annex 16.5 of the CAFTA-DR and the White Paper. As previously noted, these comments were requested to fulfill the requirement that the President establish a mechanism to solicit public comments on the matters described in Section 403(a)(4) of the CAFTA-DR Implementation Act.<sup>106</sup> The notice provided a 37-day period for submitting written comments and suggestions, and closed on May 20, 2011.

During this period, ILAB received comments from two interested parties: The Salvadoran National Association of Private Enterprise (ANEP) and the Guatemalan Coordination Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF). ANEP provided an excel spreadsheet with a list of activities under different White Paper categories. The list included the topic, the dates, a description of the activities, the results, participants and funders for seven activities under freedom of association, eight under worst forms of child labor and 14 under a culture of compliance. The spread sheet also provided a list of 15 projects co-funded by the ILO and the Sugar Industry. CACIF provided a 21-page document with annexes, summarized below.<sup>107</sup>

##### **Comments from CACIF:**

CACIF first describes the history of violent conflict in Guatemala and how this has contributed significantly to distrust between workers and employers. According to CACIF, the polarizing ideologies of the far right and left and the concomitant violence that has stemmed from their discord have led many Guatemalans to distrust government institutions. CACIF suggests that violence against trade unionists in Guatemala is part of a systemic problem of violence and organized crime throughout Guatemalan society. They cite the Guatemalan Government's significant resource limitations as a limitation on its ability to enforce laws in general, labor laws being but a sub-set of these. In addition, CACIF describes the panoply of other problems confronting the country, such as insecurity, drug trafficking, a large informal economy, historical social cleavages, and a general lack of government financial resources and technological capacity. Nevertheless, they maintain that labor conditions have improved markedly in the last 10 years, particularly in the level of commitment to programs promoting CSR and self-initiated programs to promote labor law compliance.

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<sup>105</sup> 76 Fed. Reg. 20713 (April 13, 2011).

<sup>106</sup> 19 U.S.C. 4111(a)(4).

<sup>107</sup> For the full ANEP and CACIF comments submitted in response to the *Federal Register* notice, see U.S. eRulemaking Program Management Office, Docket Folder Summary, *Request for Comments on Labor Capacity-Building Efforts Under the Dominican Republic-Central America-United States Free Trade Agreement*; available from <http://www.regulations.gov/#!docketDetail;dct=FR+PR+N+O+SR+PS;rpp+=10;po=0;D=DOL-2011-0005>.

According to CACIF, opportunities for tripartite dialogue have evolved in Guatemala. One such opportunity is the proposal to create an economic and social council, which would further strengthen social dialogue and would include a representative from the Guatemalan Workers Union (UGT).

Next CACIF suggests various reasons for the low level of unionization in Guatemala. According to CACIF, such explanations include certain employers' and unions' adherence to old beliefs and ways of doing business and the unions' failure to modernize. They propose that this latter circumstance contributes to the public's view of unions as destructive forces. CACIF commits to a continuing support for labor law and dialogue.

CACIF also responds to the U.S. allegations that labor inspectors fail to conduct inspections, noting that inspectors have the full support and encouragement of the formal private sector. They cite efforts by the Guatemala Commission of the Clothing and Textile Industry (VESTEX)<sup>108</sup> to ensure compliance with the law and report any non-compliance to the authorities. In the agricultural sector and other remote areas, CACIF describes their commitment to granting access to labor inspectors while acknowledging that some problems remain unaddressed. These problems include a lack of sufficient funds to carry out inspections in remote areas and the existence of corruption and graft by some labor inspectors. CACIF points to such corruption as one reason the United States should not request that inspectors have the ability to sanction. CACIF notes it is willing to work with the government on this issue, and to continue to provide trainings for labor inspectors.

CACIF next addresses the U.S. suggestion that companies who export under Presidential Decree 29-89 should lose their tax-exempt status when found to be in violation of labor laws. They note that the majority of companies are in compliance with the law, and where there have been violations, they are being addressed through the Guatemalan legal system. CACIF asserts that while the adjudication of labor law violations may be a lengthy process, this is a reality that affects the Guatemalan judiciary in general. They note that the Government of Guatemala removed tax-exempt status for two companies due to labor law violations this year. From CACIF's perspective, these actions seemed arbitrary and raised concerns that citizens' rights may be undermined to show increased labor law enforcement. As an alternative, CACIF states that it has submitted to the government and unions a proposal on how to make the enforcement of tax benefits more effective and express their willingness to work to find a solution.

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<sup>108</sup> According to its website, the Guatemala Apparel & Textile Industry Commission (VESTEX) is part of the Guatemalan Exporters' Association (AGEXPRONT), which promotes competitive exports growth to sustain the economic and social development of Guatemala. VESTEX aims to develop and promote the apparel and textile industry by offering technical and training assistance, information and marketing support, export promotion and lobbying, to establish and maintain positive relationships with government and international institutions. VESTEX website [cited October 27, 2011]; available from [http://www.vestex.com.gt/vx/index.php?option=com\\_content&view=article&id=171&Itemid=115&lang=en](http://www.vestex.com.gt/vx/index.php?option=com_content&view=article&id=171&Itemid=115&lang=en).

CACIF asserts that it has urged the Government of Guatemala to take steps necessary to address issues raised during the CAFTA-DR labor consultations. While CACIF notes their past history of criticizing the Government of Guatemala when necessary, they also emphasize the government's efforts to improve workers' conditions and social dialogue. Though CACIF agrees with most of the ILO recommendations in the context of the White Paper, they maintain that some recommendations, such as the revision of the labor code, would require a significant amount of work and political will from all stakeholders.

CACIF then outlines various CSR programs and efforts underway in Guatemala, through the Center for Corporate Social Responsibility in Guatemala (CentraRSE)<sup>109</sup> and in various economic sectors such as apparel, agriculture, coffee, sugar, banana, and non-exporting industries.

Finally, CACIF highlights the economic significance of the CAFTA-DR, noting the amount of trade between the countries, and its concern regarding the possible negative impact on exports resulting from an escalation of the current labor dispute under the CAFTA-DR to arbitration.

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<sup>109</sup> Founded in 2003, CentraRSE today is an organization with more than 100 associated member companies that belong to more than 20 sectors and subsectors of the country. They represent around 30 percent of Guatemala's GDP and employ 150,000 families, making it the most influential and one of the most important coalitions of CSR-promoting businesses. CentraRSE website (in Spanish only) [cited October 27, 2011]; available from [http://www.centrase.org/main.php?id\\_area=2&idioma=ESP](http://www.centrase.org/main.php?id_area=2&idioma=ESP).

## **V. Conclusion**

This report reviews CAFTA-DR Chapter 16 (Labor), labor technical assistance projects, and progress related to the White Paper recommendations. It reveals some positive trends and indicates that much work remains. The report provides information about how the USG has implemented Chapter 16 (Labor). It discusses how the USG has established the institutions, procedures and points of contact required under Chapter 16, which provide vehicles for engagement and dialogue among the CAFTA-DR parties, as well as with civil society. The report details how the USG received submissions from civil society, investigated, reported, and engaged with the Governments of Costa Rica and Guatemala; and took the unprecedented step of raising the Guatemala labor issues under the Labor Chapter Consultations process, in an attempt to use all the mechanisms available to find a collaborative solution. It notes that when progress remained elusive, the USG took the issues to the CAFTA-DR Dispute Settlement Chapter. This is the first time any government has used Dispute Settlement procedures under a Free Trade Agreement to seek compliance with an FTA's labor provisions. These efforts reflect the USG's commitment to ensure that all CAFTA-DR Parties comply with their obligations under the Labor Chapter.

This report also reveals that the USG has contributed significant resources for labor capacity building activities in the CAFTA-DR region. These resources provided needed support to the CAFTA-DR countries' public institutions, as well as employers and workers, leading to results such as improved workplace conditions and strengthened public agencies. In most countries, however, the programs have not fundamentally altered the systemic issues many workers face when trying to exercise their rights, particularly their rights related to freedom of association, collective bargaining and the right to strike. The challenges workers face vary from country to country; including differences in enforcement, infrastructures and judicial systems. This report recognizes those countries that have dedicated resources and attempted to make progress in supporting worker rights and labor law enforcement, as well as pointing out areas where much work remains to be done.



## **VI. Annexes**

**Annex A:** CAFTA-DR Implementation Act – Legislative Requirements

**Annex B:** List of CAFTA-DR Technical Assistance Projects

**Annex C:** OTLA Procedural Guidelines for Submissions

**Annex D:** Joint Statement from the Ministers of Labor of the CAFTA-DR region,  
Labor Affairs Council meeting, November 21, 2008

**Annex E:** Overview of Comply and Win (*Cumple y Gana*) printed products

**Annex F:** Overview of the ILO's Better Work Program

## **Annex A: CAFTA-DR Implementation Act – Legislative Requirements**

### **19 U.S.C. § 4111: US Code - Section 4111: Periodic reports and meetings on labor obligations and labor capacity-building provisions**

#### **(a) Reports to Congress**

##### **(1) In general**

Not later than the end of the 2-year period beginning on the date the Agreement enters into force, and not later than the end of each 2-year period thereafter during the succeeding 14-year period, the President shall report to the Congress on the progress made by the CAFTA-DR countries in –

- (A) implementing Chapter Sixteen and Annex 16.5 of the Agreement; and**
- (B) implementing the White Paper.**

##### **(2) White Paper**

In this section, the term "White Paper" means the report of April 2005 of the Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic entitled "The Labor Dimension in Central America and the Dominican Republic – Building on Progress: Strengthening Compliance and Enhancing Capacity".

##### **(3) Contents of reports**

**Each report under paragraph (1) shall include the following:**

- (A) A description of the progress made** by the Labor Cooperation and Capacity Building Mechanism established by article 16.5 and Annex 16.5 of the Agreement, and the Labor Affairs Council established by article 16.4 of the Agreement, in achieving their stated goals, including a description of the capacity-building projects undertaken, funds received, and results achieved, in each CAFTA-DR country.
- (B) Recommendations** on how the United States can facilitate full implementation of the recommendations contained in the White Paper.
- (C) A description of the work done** by the CAFTA-DR countries with the International Labor Organization to implement the recommendations contained in the White Paper, and the efforts of the CAFTA-DR countries with international organizations, through the Labor Cooperation and Capacity Building Mechanism referred to in subparagraph (A), to advance common commitments regarding labor matters.

**(D) A summary of public comments received on –**

(i) capacity-building efforts by the United States envisaged by article 16.5 and Annex 16.5 of the Agreement;

(ii) efforts by the United States to facilitate full implementation of the White Paper recommendations; and

(iii) the efforts made by the CAFTA-DR countries to comply with article 16.5 and Annex 16.5 of the Agreement and to fully implement the White Paper recommendations, including the progress made by the CAFTA-DR countries in affording to workers internationally-recognized worker rights through improved capacity.

**(4) Solicitation of public comments**

The President shall establish a mechanism to solicit public comments for purposes of paragraph (3)(D).

## **Annex B: List of CAFTA-DR Technical Assistance Projects<sup>1</sup>**

### **White Paper Area 2: Strengthen Labor Ministries' Capacity to Enforce Labor Laws, Conduct Inspections, and Resolve Labor Disputes**

(1.) *Comply and Win II (FY05; \$4.49 million; 2006-2009): Administered by USDOL, Implemented by Foundation for Peace and Democracy—FUNPADEM:* This project provided over three million workers information on labor rights by airing 52 radio spots at a rate of 1,800 per month, disseminating over 3.3 million informational materials, and installing an innovative web site with information on labor laws for workers and employers, [www.levlaboral.com](http://www.levlaboral.com). Additionally, the project trained over 10,000 ministry officials, employers, and workers on labor laws and procedures, and developed labor inspection manuals and electronic case management systems in each of the countries. The project built on a previously-funded USDOL project, Comply and Win I.

(2.) *Comply and Win III for Inspection (FY07-08; \$8.8 million; 2008-2012): Administered by USDOL, Implemented by Foundation for Peace and Democracy—FUNPADEM:* This project helps CAFTA-DR Labor Ministries make maximum use of resources by strategically targeting their labor inspection activities to specific sectors and/or types of labor violations. The project completed the installation of electronic systems in the several Inspectorates to assist in the management of cases and data collection. The project also developed inspection protocols, including for freedom of association and collective bargaining, which were validated by worker and business organizations and will be widely used by inspectors starting in 2011.

(3.) *Modernize Labor Ministries (FY05-08, \$3 million; 2006-2009): Administered by USAID, Implemented by SRA International:* This project developed integrated management systems to better provide services to workers and employers. The project helped develop information technology infrastructure and training and media production centers, provided computer equipment to the Ministries to support key electronic systems, and facilitated a Virtual Regional Labor Training Center that will network regional Ministry training centers.

(4.) *Todas y Todos Trabajamos: Establishing Worker Rights Centers (FY06-07-09; \$6.4 million; 2007-2012): Administered by USDOL, Implemented by Catholic Relief Services:* This project, implemented through local Worker Rights Centers in each country, has provided legal assistance on 54,821 labor rights cases and supported workers in submitting nearly 37,410 of those cases to labor authorities. The Centers have conducted educational workshops for 57,079 workers and trained 418 local trainers, who have conducted 211 repeat trainings to continue the project's outreach services beyond US funding. The media campaign has used television, radio, flyers, and kiosks to inform nearly 7 million workers about their labor rights.

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<sup>1</sup> <http://www.ustr.gov/about-us/press-office/fact-sheets/2011/may/cafta-dr-labor-capacity-building>; also Office of Child Labor, Forced Labor and Human Trafficking, International Labor Affairs Bureau, U.S. Department of Labor.

(5.) *Strengthening Civil Service Systems for Labor Inspectorates (FY06; \$1.19 million; 2007-2012): Administered by USDOL, Implemented by the International Labor Organization:* This project works within the Inspectorates of the Ministries of Labor of El Salvador, Guatemala, and Honduras to improve the recruitment and retention of qualified, experienced, and professional staff. The project has created inspection training modules that focus on ethical protocols and unification of inspector positions and responsibilities and drafted a code of ethics and integrity, which is in review and will be finalized in 2011.

(6.) *Ensuring Benefits in the Formal Sector: Working with the Salvadoran Social Security Institute (FY07; \$940,000; 2008-2011): Administered by USDOL, Implemented by Alexius International:* This project is designed to raise awareness of El Salvador's social security system and increase accountability. The project promotes a transparent process for employers' payments into the social security system, allowing workers to verify, via text message, the proper transfer of salary deductions to the social security agency. This assures that workers can receive the health care benefits to which they are entitled.

### **White Paper Area 3: Strengthening the Judicial Systems for Labor Law**

(7.) *Labor Justice Training (FY05; \$2 million; 2006-2008): Administered by USDOL, Implemented by the International Labor Organization:* This comprehensive training program trained judicial personnel on national labor laws, the application of international labor standards, and proper handling of labor-related cases. This program trained over 600 legal professionals on international labor standards and conducted five courses on techniques for admission of evidence for 140 participating judges.

(8.) *Strengthening Labor Justice for CAFTA-DR (FY05-07-08-09; \$12.14 million; 2007-2012): Administered by USAID, Implemented by Management Sciences for Development:* To address inefficiencies in court systems and guarantee legal compliance and predictability, this project was designed to build the capacity of labor courts and expedite labor court cases in CAFTA-DR countries. After implementing pilot labor courts, the program is now replicating the model in 68 labor courts across the region. Court processes are being streamlined and electronic case management systems designed and implemented. Model court rooms with audio/video capability have been set up to facilitate the training of law professionals and law students in oral techniques. Post-graduate degree programs have been launched in three countries. Virtual labor justice observatories have been set up in each country as part of a region-wide judicial monitoring effort by civil society.

(9.) *Citizens' Access to Labor Justice for CAFTA-DR (FY07-08-09; \$5.3 million; 2008-2012): Administered by USAID, Implemented by Pact & the Inter-American Institute for Human Rights:* This program was designed to facilitate access to labor justice, contribute to transparency and accountability in the labor justice system, and reduce gender and other forms of discrimination in the administration of labor justice in CAFTA-DR countries. The program has trained 21 civil society institutions throughout the region to

provide legal services in labor cases; designed and installed an electronic case management system in each legal clinic; and provided grants and training in the area of access to labor justice to 10 civil society institutions. 500 public employees have been trained to detect and reduce labor discrimination based on gender, workers with HIV/AIDS, domestic workers, physically challenged workers, and migrant workers.

#### **White Paper Area 4: Protections Against Discrimination in the Workplace**

*(10.) Comply and Win Gender Component (FY05; \$1.98 million ; 2006-2009):*

*Administered by USDOL, Implemented by Foundation for Peace and Democracy:*

Offices specializing in issues related to gender were established or enhanced in CAFTA-DR Ministries of Labor, which included providing training, technical support, and equipment to the staff. Labor inspectors and mediators were trained on techniques for detecting and investigating gender workplace discrimination, and over 1,500 workers were trained on protection against gender discrimination and labor rights through “Train the Trainer” programs.

*(11.) Provide Job Training for People with Disabilities in Costa Rica (FY07; \$470,000;*

*2008-2010): Administered by USDOL, Implemented by Trust for the Americas:* The Government of Costa Rica recently passed legislation to encourage hiring people with disabilities. This project, which concluded in September 2010, was successful in reducing the barriers to employment for people with disabilities by training them in information technology (using adaptive technology) and other skills, educating employers, and facilitating job placement. The project trained 268 employers and 242 people with disabilities.

*(12.) Continuous Improvement in the Central American Workplace (FY06; \$2 million;*

*2007-2008): Administered by USAID, Implemented by DAI and a multi-sectoral stakeholder alliance:* This alliance worked to jointly train workers and managers in 47 factories and Labor Ministry inspectors across the region on labor rights and voluntary compliance best practices, resulting in improved working conditions for nearly 24,000 workers in the predominantly female textile/apparel sector. Factory-level improvements included implementation of a new anti-discrimination manual, non-interference in formation of a union, reduced overtime, creation of a Safety and Hygiene committee, better employee training, and improved worker-manager communication

*(13.) Citizens’ Access to Labor Justice for CAFTA-DR (FY07-08; \$1.3 million; 2008-*

*2010): Administered by USAID, Implemented by Pact & the Inter-American Institute for Human Rights:* This aspect of the Citizen’s Access to Labor Justice project provided training and other support to civil society organizations that provide services (counseling, accessibility, translation for indigenous languages, etc.) to women and other disadvantaged groups to obtain access to labor justice. The project conducted an audit of court processes that affect women, disabled persons, indigenous groups, and other disadvantaged populations, and provided technical assistance to these courts, as well as sensitization training for judges and public defenders.

## **White Paper Area 5: Eliminate the Worst Forms of Child Labor (WFCL)**

USDOL has funded several programs targeting the elimination of child labor in Central America, both prior to negotiations of the CAFTA-DR and after it entered into force for the respective CAFTA-DR countries. Since 2005, this funding has included approximately \$43 million in projects to eliminate exploitive child labor in the region. These efforts have removed or prevented over 43,000 children from exploitive child labor, providing them with educational and training opportunities, and aim to prevent or remove tens of thousands of other children from exploitive or dangerous conditions.

*(14.) Eliminating Child Labor in El Salvador through Economic Empowerment and Social Inclusion, (FY10, \$10 million, 2010-2014): Administered by USDOL, Implemented by the International Labor Organization's International Program on the Elimination of Child Labor (ILO-IPEC):* This initiative is working to combat child labor by promoting education opportunities and livelihood alternatives. The project will be embedded in national programs to combat poverty and social exclusion, and it will benefit 12,500 children and 5,000 households in rural and urban areas. The project will include an impact evaluation component to test project interventions.

*(15.) Combating Child Labor through Education in Guatemala: My Rights Matter (FY09, \$4.2 million, 2009-2013), Administered by USDOL, Implemented by Catholic Relief Services in association with the Diocesan Caritas of San Marcos, and the Asociación Conrado de la Cruz:* This project is working towards the creation of "Child Labor-Free Zones" in two municipalities in the departments of Totonicapán and San Marcos by promoting the capacity of local governments, civil society organizations, and private sector actors to develop policies and programs to combat child labor. In addition, the project seeks to draw on the capacity of indigenous leaders to address child labor through awareness raising and the mobilization of Mayan organizations. The project aims to withdraw 5,720 children and prevent 3,600 children from entering exploitative labor through the implementation of education models validated to reduce child labor in public schools and vocational institutions.

*(16.) Combating Child Labor Through Education in Nicaragua, ENTERATE (FY08, \$5 million, 2008-2011): Administered by USDOL, Implemented by the American Institutes for Research, in association with INPRHU-Somoto, La Cuculmeca, and Club Infantil.* This project aims to prevent 5,045 children for withdrawal and 5,000 children for prevention from exploitative child labor in the Departments of Madriz, Jinotega, and Managua. The ENTERATE project offers various educational and training opportunities to children and adolescents engaged in or at risk of exploitative work. The project is strengthening the capacity of local government agencies to enforce child labor laws. ENTERATE has also been working with coffee producers to develop a corporate social responsibility strategy, promote a child labor-free certification for Nicaraguan coffee, and provide education to the children of plantation workers.

*(17.) Combating Child Labor through Education, Youth Employment and Public-Private Partnerships in the Dominican Republic (FY07, \$4 million, 2007-2011): Administered*

by USDOL, Implemented by DevTech Systems, Inc., EDUCA, and INTEC: This project ended in February 2011 and had built upon a previous child labor project that developed an innovative and well-received school enrichment program, Espacios para Crecer (Spaces for Growth). The project worked to strengthen child labor policies, national institutions, and education systems to reduce hazardous child labor and increase school attendance for children working in exploitative conditions; it also raised awareness of the importance of education for children and mobilized actors to improve and expand education infrastructures. This project withdrew or prevented a total of 13,109 children from exploitive labor.

(18.) *Supporting the Time-Bound Program on the Elimination of the WFCL in El Salvador, Phase II (FY06, \$3.38 million, 2006-2010): Administered by USDOL, Implemented by ILO-IPEC:* The project prevented 9,555 children from the WFCL and withdrew an additional 3,369 children. The project also advocated for the inclusion of child labor concerns into education and health policies, increased awareness about child labor and the benefits of its elimination, supported educational curriculum, and developed afterschool programs.

(19.) *Supporting the Time-Bound Program for the Elimination of the WFCL in the Dominican Republic – Phase II (FY06, \$2.7 million, 2006-2010): Administered by USDOL, Implemented by ILO-IPEC:* The project withdrew 3,171 children and prevent 2,371 children from the WFCL in the Dominican Republic, and it supported efforts by the National Steering Committee and Inter-Institutional Committee to implement the National Plan to Eradicate the Worst Forms of Child Labor and an Action Plan for the Eradication of Abuse and Commercial Sexual Exploitation of Boys, Girls, and Adolescents. This included providing stakeholders with tools to combat WFCL, establishing a system to recommend intervention services for exploited children, providing training to the actors that investigate, prosecute and penalize exploiters, and providing educational services and family income-generation support to children withdrawn from exploitative labor.

(20.) *Stop the Exploitation: Contribution to the Prevention and Elimination of Commercial Sexual Exploitation of Children (CSEC) in Central America, Panama, and the Dominican Republic (FY02 and FY05, \$8.78 million, 2002-2009): Administered by USDOL, Implemented by ILO-IPEC:* The project withdrew 962 and prevented 1,497 children from trafficking and commercial sexual exploitation through education and social service interventions. The project also raised awareness about CSEC by generating and disseminating information on the issue, developing a project Web site, and training media on proper CSEC reporting procedures. The capacity of country governments was built through the training of police on techniques of investigation of CSEC and training of social services agencies on the prevention of and care of CSEC and trafficking victims, as well as through technical assistance in drafting legislative reform and the promotion of regional agreements to address the issues. The project also worked with the tourism industry to develop codes of conduct to combat CSEC and trafficking.



(21.) *Combating Child Labor through Education in Central America and the Dominican Republic: Primero Aprendo (FY04: \$5.73 million, 2004-2009): Administered by USDOL, Implemented by CARE-USA:* The project worked to increase the recognition of child labor as an education issue and develop education systems that welcomed working children. The project withdrew 3,171 and prevented 2,371 children from exploitative labor in Costa Rica, Guatemala, Honduras, and Nicaragua by mobilizing communities to participate in the education process, carrying out local and regional media campaigns, developing a Web site and publications to raise awareness, promoting and expanding transitional schooling and alternative programs, and strengthening existing National Child Labor Commissions.

For more information, please view <http://www.dol.gov/ilab/map/countries/map-cont.htm>.

### **White Paper Area 6: Promote a Culture of Compliance**

(22.) *Better Work Nicaragua (FY09; \$2 million; 2010-2015): Administered by USDOL, Implemented by the International Labor Organization:* This project aims to create decent job opportunities in the garment sector in Nicaragua. The project's objective is to increase the competitiveness of the sector by monitoring labor law compliance and providing services to elevate productivity at the factory level. This model has been proven successful for job creation in other countries, including Cambodia. The level of transparency provided by the ILO's monitoring on labor conditions is a highly attractive feature for multinational brands, as they lower their auditing costs while protecting their reputation.

(23.) *Promoting Compliance with Labor Standards for Migrant Workers (FY08; \$900,000; 2009-2011): Administered by State/DRL, Implemented by Trust for the Americas:* This project seeks to improve labor standards for migrant workers in Costa Rica, the Dominican Republic, and El Salvador in three ways: (1) it builds the long-term capacity of civil society organizations, including labor and human rights NGOs, to better reach out to migrant workers; (2) it raises awareness among employers of the rights of migrant workers and builds the capacity of employer trade associations to help employers improve compliance efforts; and (3) it builds the capacity of labor ministries to improve and develop policy and enforcement mechanisms related to labor protections for migrant workers. In 2010, the project provided training and targeted support to a diverse group of 27 civil society organizations.

(24.) *Promoting a culture of compliance: Awareness, capacity building and advocacy (FY06; \$2 million; 2007-2010): Administered by State/DRL, Implemented by Trust for the Americas:* This project strengthened regional worker and employer organizations by raising workers' awareness and understanding of their rights and how to assert them and by building the capacity of worker and employer organizations with respect to compliance issues. It also built the advocacy and technical capacity of civil society organizations. The project, which closed in 2010, trained over 2,800 worker representatives, employer representatives, students and journalists representing 400 worker and employer organizations. To enhance sustainability and enable local

organizations to continue these efforts, the project awarded 34 small grants to civil society organizations and provided individual project mentoring to execute activities in support of labor rights compliance.

*(25.) A Worker-Centered Approach to Building a Culture of Labor Rights Compliance (FY06,-08, 09; \$4.8 million; 2006-2012): Administered by State/DRL, Implemented by the American Center for International Labor Solidarity—ACILS (Solidarity Center):*

This project focuses on: (1) educating workers on fundamental labor rights and the use of national and international labor rights protection instruments to defend these rights; and (2) building and strengthening independent, representative worker organizations in key economic sectors. Through an informal economy program component added in 2010, the project will build the capacity of both workers and their organizations to understand, promote, and protect the rights of informal and marginalized workers. In 2010, the project provided training and mentoring for 64 independent and democratic labor unions to promote international core labor standards, and trained approximately 5,400 workers in areas including union organizing, collective bargaining, conflict resolution, equality, and non-discrimination.

*(26.) Supporting Responsible Competitiveness (FY06; \$2 million; 2007-2010): Administered by State/DRL, Implemented by Business for Social Responsibility:* This program worked to make the “business case” for responsible labor practices through education on labor standards and by demonstrating that these practices can have a positive effect on competitiveness in several key industries in the CAFTA-DR countries. The project, which closed in 2010, executed 15 “demonstration projects” with local producers to implement practical improvements at the company level, and disseminated the findings to other companies, government, and international buyers through executive education seminars. The project helped build a regional network of organizations to continue engaging and encouraging member companies to maintain this initiative.

*(27.) Cultivar: Strengthening Labor Law Compliance in Agriculture (FY06; \$2.9 million; 2007-2011): Administered by USDOL, Implemented by Social Accountability International:* This project works with targeted agricultural communities in Honduras, Nicaragua, and the Dominican Republic to develop and implement action plans to improve law labor compliance, emphasizing occupational safety and health regulations. The project collaborates with local organizations and Ministries of Labor to strengthen mechanisms for workers to exercise their rights. The project has trained approximately 400 people on 18 farms in the three countries and has convened inter-institutional working groups and crop-specific consultative groups.

*(28.) Campo a Campo: Advancing Labor Rights in the Agricultural Sector in Guatemala (FY07; \$940,000; 2008-2011): Administered by USDOL, Implemented by Catholic Relief Services:* This project works with a local partner, the Social Pastorate, in the department of Izabal. By the end of 2010, the project had provided information and training on labor rights to over ten thousand workers in rural communities through community fairs, and the two Worker Rights Centers established by the project had delivered free legal advice to 753 workers, submitting 1080 cases before the relevant authorities. The project works

with local organizations and the departmental office of the Ministry of Labor to strengthen mechanisms for workers to exercise their rights and to educate employers on national labor laws.

*(29.) Promoting Informal Labor Rights: (PILAR) (FY07; \$990,000; 2008-2011): Administered by State/DRL, Implemented by Global Fairness Initiative:* This pilot project, which closed in January 2011, focused on extending labor rights to the informal sector in Guatemala and Nicaragua. The project developed best practices and training modules for government officials on data collection and strategies to incentivize worker formalization and provided training to over 1,600 stakeholders, educating worker organizations and informal sector workers on labor rights, government benefits such as social security, and potential pathways to formalization.

*(30.) Promote Tripartite Social Dialogue (FY07; \$2.97 million; 2008-2012): Administered by State/DRL, Implemented by the International Labor Organization:* This project is strengthening national tripartite institutions and mechanisms for social dialogue among governments, workers, and employers to increase compliance with labor law and improve cooperation to develop common agendas and formal agreements. In 2010, the project provided assistance to help create a united sub-regional trade union platform, facilitated by the Trade Union Confederation of the Americas.

*(31.) Support Alliances to Improve Labor and Environmental Standards (FY07; \$2 million; 2008-2010): Administered by USAID, Implemented by Chemonics, Inc.:* This program has channeled the power of commercial alliances between companies along the value chain into encouraging producers and processors to adopt voluntary environmental and labor standards that buyers developed and/or supported. In the area of labor, the alliances between producers and buyers have included establishing baselines such as for workers' safety, undertaking diagnostics, implementing better practices, and seeking independent certifications.

### **Special Project Area: Implement Benchmarking, Verification, and Monitoring Procedures**

*(32.) Verification of White Paper Recommendations (FY05-07-08; \$11.6 million; 2006-2012): Administered by USDOL, Implemented by the International Labor Organization:* This project tracks progress made on the implementation of the White Paper recommendations through extensive consultations with stakeholders, including NGOs, employers, and worker organizations, and measures it against country implementation plans designed to record progress. The Baseline Report for the ILO Verification of the Compliance of White Paper Recommendations was published in August 2007. Follow-up verification reports have been produced as verification mechanisms on the implementation of recommendations. All reports can be located at <http://verificacion.oit.or.cr>.

**Notice of Procedural Guidelines***Section A. Designation of Contact Point*

1. The Office of Trade and Labor Affairs is designated as the contact point as required by Article 15.4.2 and Annex 15-A of the U.S.-Bahrain FTA, Article 18.4.3 and Annex 18.5 of the U.S.-Chile FTA, Article 17.4.2 and Annex 17A of the U.S.-Singapore FTA, Article 16.4.1 and Annex 16-A of the U.S.-Morocco FTA, Article 18.4.2 of the U.S.-Australia FTA, and Article 16.4.3 and Annex 16.5 of the U.S.-Dominican Republic-Central America FTA (CAFTA-DR).

2. The Office of Trade and Labor Affairs is designated as the contact point for labor chapters of other FTAs to which the United States may become a party to the extent provided for in such agreements, implementing legislation, or accompanying statements of administrative action.

3. The Office of Trade and Labor Affairs retains the functions of, and designation as, the National Administrative Office to administer Departmental responsibilities under the North American Agreement on Labor Cooperation. Unless the Secretary of Labor directs otherwise, the Director of the Office of Trade and Labor Affairs retains the functions of, and designation as, the Secretary of the National Administrative Office under Article 15 of the North American Agreement on Labor Cooperation.

*Section B. Definitions*

As used herein:

*FTA* means the U.S.-Bahrain Free Trade Agreement, the U.S.-Chile Free Trade Agreement, the U.S.-Singapore Free Trade Agreement, the U.S.-Australia Free Trade Agreement, the U.S.-Morocco Free Trade Agreement, the CAFTA-DR, or other free trade agreement to which the United States may become a party under which the Department is given a role in administering the labor provisions of the agreement;

*Another Party or other Party* means a country other than the United States that is a Party to an FTA or the NAALC;

*Commission for Labor Cooperation* means the Commission for Labor Cooperation established pursuant to Article 8 of the NAALC;

*Labor chapter* means Chapter 15 of the U.S.-Bahrain FTA, Chapter 18 of the U.S.-Chile FTA, Chapter 17 of the U.S.-Singapore FTA, Chapter 16 of the U.S.-Morocco FTA, Chapter 18 of the U.S.-Australia FTA, Chapter 16 of the CAFTA-DR, or a labor chapter of any other FTA;

*Labor committee* refers to (1) The Labor Affairs Council established

pursuant to Article 18.4.1 of the U.S.-Chile Free Trade Agreement, Article 16.4.1 of the CAFTA-DR, or pursuant to any other FTA and (2) a Subcommittee on Labor Affairs that may be established by the Joint Committee pursuant to Article 15.4 of the Bahrain FTA, Article 17.4.1 of the U.S.-Singapore FTA, Article 18.4.1 of the U.S.-Australia FTA, Article 16.6.3 of the U.S.-Morocco FTA, or pursuant to any other FTA;

*Labor cooperation program* refers to (1) The Cooperative Activities Program undertaken by the Parties to the NAALC and (2) a Labor Cooperation Mechanism established pursuant to Article 15.5 of the U.S.-Bahrain FTA, Article 18.5 of the U.S.-Chile FTA, Article 17.5 of the U.S.-Singapore FTA, Article 16.5 of the U.S.-Morocco FTA, Article 18.5 of the U.S.-Australia FTA, Article 16.5 of the CAFTA-DR, or a similar mechanism established pursuant to any other FTA;

*Labor organization* includes any organization of any kind, including such local, national, and international organizations or federations, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment;

*NAALC* means the North American Agreement on Labor Cooperation;

*Non-governmental organization* means any scientific, professional, business, or public interest organization or association that is neither affiliated with, nor under the direction of, a government;

*Party* means a Party to an FTA or the NAALC;

*Person* includes one or more individuals, non-governmental organizations, labor organizations, partnerships, associations, corporations, or legal representatives; and

*Submission* means a communication from the public containing specific allegations, accompanied by relevant supporting information, that another Party has failed to meet its commitments or obligations arising under a labor chapter or Part Two of the NAALC.

*Section C. Functions of the Office of Trade and Labor Affairs*

1. The OTLA shall receive and consider communications from the public on any matter related to the NAALC or a labor chapter of an FTA. The OTLA shall consider the views expressed by the public; consult, as appropriate, with foreign government officials, the designated contact point, and non-government representatives;

and provide appropriate and prompt responses.

2. The OTLA shall provide assistance to the Secretary of Labor on all matters concerning a labor chapter of an FTA or the NAALC, including the development and implementation of a labor cooperation program.

3. The OTLA shall serve as a contact point with agencies of the United States government, counterparts from another Party, the public, governmental working or expert groups, business representatives, labor organizations, and non-governmental organizations concerning matters under a labor chapter or the NAALC. The OTLA encourages comments on relevant labor issues from the public at large and will consider them as appropriate.

4. The OTLA shall promptly provide publicly available information pursuant to Article 16.2 of the NAALC as requested by the Secretariat of the Commission for Labor Cooperation, the National Administrative Office of another Party, or an Evaluation Committee of Experts.

5. The OTLA shall receive, determine whether to accept for review, and review submissions on another Party's commitments and obligations arising under a labor chapter or the NAALC, as set out in Sections F, G, and H.

6. The OTLA may initiate a review of any matter arising under a labor chapter or the NAALC.

7. The OTLA may request, undertake, and participate in consultations with another Party pursuant to Parts One, Four and Five of the NAALC, or pursuant to the consultation provisions of FTAs, such as Article 15.6 of the U.S.-Bahrain FTA, Article 18.6 of the U.S.-Chile FTA, Article 17.6 of the U.S.-Singapore FTA, Article 18.6 of the U.S.-Australia FTA, Article 16.6 of the U.S.-Morocco FTA, and Article 16.6 of the CAFTA-DR, and respond to requests for such consultations made by another Party.

8. The OTLA shall assist a labor committee or the Commission for Labor Cooperation on any relevant matter.

9. The OTLA shall, as appropriate, establish working or expert groups; consult with and seek advice of non-governmental organizations or persons; prepare and publish reports as set out in Section J and on matters related to the implementation of a labor chapter pursuant to Article 15.4.3 and 15.4.5 of the U.S.-Bahrain FTA, Article 18.4.4 and 18.4.6 of the U.S.-Chile FTA, Article 17.4.3 and 17.4.5 of the U.S.-Singapore FTA, Article 16.4.4 and 16.4.6 of the CAFTA-DR, Article 18.4.3 of the U.S.-Australia FTA, Article 16.4.2 and 16.4.4 of the U.S.-Morocco FTA, or

pursuant to any other FTA; collect and maintain information on labor law matters involving another Party; and compile materials concerning labor law legislation of another Party.

10. The OTLA shall consider the views of any advisory committee established or consulted to provide advice in administering a labor chapter or the NAALC.

11. In carrying out its responsibilities under the labor chapters and the NAALC, the OTLA shall consult with the Office of the United States Trade Representative, the Department of State, and other appropriate entities in the U.S. government.

#### *Section D. Cooperation*

1. The OTLA shall conduct at all times its activities in accordance with the principles of cooperation and respect embodied in the FTAs and the NAALC. In its dealings with a contact point of another Party and all persons, the OTLA shall endeavor to the maximum extent possible to resolve matters through consultation and cooperation.

2. The OTLA shall consult with the contact point of another Party during the submission and review process set out in Sections F, G and H in order to obtain information and resolve issues that may arise.

3. The OTLA, on behalf of the Department of Labor and with other appropriate agencies, shall develop and implement cooperative activities under a labor cooperation program. The OTLA may carry out such cooperative activities through any means the Parties deem appropriate, including exchange of government delegations, professionals, and specialists; sharing of information, standards, regulations and procedures, and best practices; organization of conferences, seminars, workshops, meetings, training sessions, and outreach and education programs; development of collaborative projects or demonstrations; joint research projects, studies, and reports; and technical exchanges and cooperation.

4. The OTLA shall receive and consider views on cooperative activities from worker and employer representatives and from other members of civil society.

#### *Section E. Information*

1. The OTLA shall maintain public files in which submissions, transcripts of hearings, **Federal Register** notices, reports, advisory committee information, and other public information shall be available for inspection during normal business hours, subject to the terms and

conditions of the Freedom of Information Act, 5 U.S.C. 552.

2. Information submitted by a person or another Party to the OTLA in confidence shall be treated as exempt from public inspection if the information meets the requirements of 5 U.S.C. 552(b) or as otherwise permitted by law. Each person or Party requesting such treatment shall clearly mark "submitted in confidence" on each page or portion of a page so submitted and furnish an explanation as to the need for exemption from public inspection. If the material is not accepted in confidence it will be returned promptly to the submitter with an explanation for the action taken.

3. The OTLA shall be sensitive to the needs of an individual's confidentiality and shall make every effort to protect such individual's interests.

#### *Section F. Submissions*

1. Any person may file a submission with the OTLA regarding another Party's commitments or obligations arising under a labor chapter or Part Two of the NAALC. Filing may be by electronic e-mail transmission, hand delivery, mail delivery, or facsimile transmission. A hard copy submission must be accompanied by an electronic version in a current PDF, Word or Word Perfect format, including attachments, unless it is not practicable.

2. The submission shall identify clearly the person filing the submission and shall be signed and dated. It shall state with specificity the matters that the submitter requests the OTLA to consider and include supporting information available to the submitter, including, wherever possible, copies of laws or regulations that are the subject of the submission. As relevant, the submission shall address and explain to the fullest extent possible whether:

(a) The matters referenced in the submission demonstrate action inconsistent with another Party's commitments or obligations under a labor chapter or the NAALC, noting the particular commitment or obligation;

(b) there has been harm to the submitter or other persons, and, if so, to what extent;

(c) the matters referenced in the submission demonstrate a sustained or recurring course of action or inaction of non-enforcement of labor law by the other Party;

(d) the matters referenced in the submission affect trade between the parties;

(e) relief has been sought under the domestic laws of the other Party, and, if so, the status of any legal proceedings; and

(f) the matters referenced in the submission have been addressed by or are pending before an international body.

#### *Section G. Acceptance of Submissions*

1. Within 60 days after the filing of a submission, unless circumstances as determined by the OTLA require an extension of time, the OTLA shall determine whether to accept the submission for review. The OTLA may communicate with the submitter during this period regarding any matter relating to the determination.

2. In determining whether to accept a submission for review, the OTLA shall consider, to the extent relevant, whether:

(a) The submission raises issues relevant to any matter arising under a labor chapter or the NAALC;

(b) a review would further the objectives of a labor chapter or the NAALC;

(c) the submission clearly identifies the person filing the submission, is signed and dated, and is sufficiently specific to determine the nature of the request and permit an appropriate review;

(d) the statements contained in the submission, if substantiated, would constitute a failure of the other Party to comply with its obligations or commitments under a labor chapter or the NAALC;

(e) the statements contained in the submission or available information demonstrate that appropriate relief has been sought under the domestic laws of the other Party, or that the matter or a related matter is pending before an international body; and

(f) the submission is substantially similar to a recent submission and significant, new information has been furnished that would substantially differentiate the submission from the one previously filed.

3. If the OTLA accepts a submission for review, it shall promptly provide written notice to the submitter, the relevant Party, and other appropriate persons, and promptly publish in the **Federal Register** notice of the determination, a statement specifying why review is warranted, and the terms of the review.

4. If the OTLA declines to accept a submission for review, it shall promptly provide written notice to the submitter stating the reasons for the determination.

#### *Section H. Reviews and Public Reports*

1. Following a determination by the OTLA to accept a submission for review, the OTLA shall conduct such

further examination of the submission as may be appropriate to assist it to better understand and publicly report on the issues raised. The OTLA shall keep the submitter apprised of the status of a review.

2. Except for information exempt from public inspection pursuant to Section E, information relevant to a review shall be placed in a public file.

3. The OTLA shall provide a process for the public to submit information relevant to the review, which may include holding a public hearing.

4. Notice of any such hearing under paragraph 3 shall be published in the **Federal Register** 30 days in advance. The notice shall contain such information as the OTLA deems relevant, including information pertaining to requests to present oral testimony and written briefs.

5. Any hearing shall be open to the public. All proceedings shall be conducted in English, with simultaneous interpretation provided as the OTLA deems necessary.

6. Any hearing shall be conducted by an official of the OTLA or another Departmental official, assisted by staff and legal counsel, as appropriate. The public file shall be made part of the hearing record at the commencement of the hearing.

7. Within 180 days of the acceptance of a submission for review, unless circumstances as determined by the OTLA require an extension of time, the OTLA shall issue a public report.

8. The report shall include a summary of the proceedings and any findings and recommendations.

#### *Section I. Recommendations to the Secretary of Labor*

1. The OTLA may make a recommendation at any time to the Secretary of Labor as to whether the United States should request consultations with another Party pursuant to Article 15.6.1 of the U.S.-Bahrain FTA, Article 18.6.1 of the U.S.-Chile FTA, Article 17.6.1 of the U.S.-Singapore FTA, Article 18.6.1 of the U.S. Australia FTA, Article 16.6.1 of the U.S. Morocco FTA, Article 16.6.1 of the CAFTA-DR, pursuant to the labor provisions of any other FTA, or consultations with another Party at the ministerial level pursuant to Article 22 of the NAALC. As relevant and appropriate, the OTLA shall include any such recommendation in the report prepared in response to a submission.

2. If, following any such consultations, the matter has not been resolved satisfactorily, the OTLA shall make a recommendation to the Secretary of Labor concerning the

convening of a labor committee in accordance with an FTA, or the establishment of an Evaluation Committee of Experts in accordance with Article 23 of the NAALC, as appropriate.

3. If the mechanisms referred to in paragraph 2 are invoked and the matter subsequently remains unresolved, and the matter concerns whether a Party is conforming with an obligation under a labor chapter, such as Article 16.2.1.a of the CAFTA-DR, Article 18.2.1.a of the U.S.-Chile FTA, or Part Two of the NAALC, that is subject to the dispute settlement provisions of an FTA or the NAALC, the OTLA shall make a recommendation to the Secretary of Labor concerning pursuit of dispute resolution under such provisions.

4. Before making such recommendations, OTLA shall consult with the Office of the United States Trade Representative, the Department of State, and other appropriate entities in the U.S. government

#### *Section J. Periodic and Special Reports*

1. The OTLA shall publish periodically a list of submissions presented to it, including a summary of the disposition of such submissions.

2. The OTLA shall obtain and publish periodically information on public communications considered by the other Parties.

3. The OTLA may undertake reviews and publish special reports on any topics under its purview on its own initiative or upon request from the Secretary of Labor.

[FR Doc. E6-21837 Filed 12-20-06; 8:45 am]  
BILLING CODE 4510-28-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-56,770]

#### **Charleston Hosiery, Inc. Currently Known as Renfro Charleston, LLC Fort Payne, AL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974, (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on April 7, 2005, applicable to workers of Charleston Hosiery, Inc.,

Fort Payne, Alabama. The notice was published in the **Federal Register** on May 16, 2005 (70 FR 25862).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of socks.

The subject firm originally named Charleston Hosiery, Inc. was renamed Renfro Charleston, LLC on November 16, 2006 due to a change in ownership. The State agency reports that workers wages at the subject firm are being reported under the Unemployment Insurance (UI) tax account for Renfro Charleston, LLC, Fort Payne, Alabama. Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Charleston Hosiery, Inc. who were adversely affected by increased company imports.

The amended notice applicable to TA-W-56,770 is hereby issued as follows:

All workers of Charleston Hosiery, currently known as Renfro Charleston, LLC, Fort Payne, Alabama, who became totally or partially separated from employment on or after March 7, 2004, through April 7, 2007, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 8th day of December 2006.

**Linda G. Poole,**  
*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E6-21786 Filed 12-20-06; 8:45 am]  
BILLING CODE 4510-30-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-60,405]

#### **Employment Solutions Workers Employed at Water Pik, Inc. Loveland, CO; Notice of Termination of Investigation**

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on November 13, 2006 in response to a worker petition filed the Colorado Department of Labor and Employment on behalf of workers of Employment Solutions employed at Water Pik, Inc. Loveland, Colorado.

The workers of Employment Solutions employed at Water Pik, Inc.,



**Annex D: Joint Statement from the Ministers of Labor of the CAFTA-DR region,**  
**Labor Affairs Council meeting, November 21, 2008**



**Reunión del Consejo de Asuntos Laborales de los Países del Tratado de Libre Comercio de Centroamérica-República Dominicana-Estados Unidos**

**San Salvador, El Salvador  
(21 de Noviembre de 2008)**

**DECLARACIÓN DEL CONSEJO**

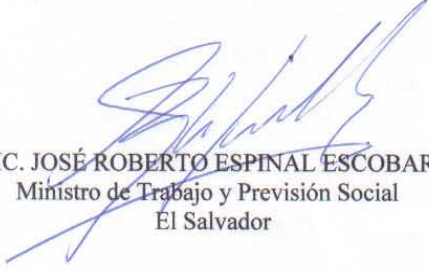
El Consejo de Asuntos Laborales (el Consejo) de los países miembros del Tratado de Libre Comercio de Centroamérica-República Dominicana-Estados Unidos de América (DR-CAFTA-USA) llevó a cabo su primera reunión hoy día en San Salvador, República de El Salvador. Los miembros del Consejo se congratulan al poder inaugurar esta reunión histórica en El Salvador. La importancia de la presente reunión radica en que el Consejo tiene la responsabilidad de vigilar por la implementación del Capítulo Laboral del DR-CAFTA-USA y de revisar su progreso, incluyendo las actividades del Mecanismo de Cooperación Laboral y Desarrollo de Capacidades que fue establecido en dicho Capítulo Laboral.

El Consejo reafirmó la importancia de que las Partes del DR-CAFTA-USA cumplan con sus compromisos bajo el Capítulo Laboral, incluyendo la aplicación efectiva de la legislación laboral de cada Parte, y el respeto por la Declaración de la OIT relativa a los Principios y Derechos Fundamentales en el Trabajo. El Consejo revisó el progreso de la implementación del Capítulo Laboral del DR-CAFTA-USA, sostuvo discusiones sobre la coordinación de la cooperación laboral y el desarrollo de capacidades e identificó prioridades para las actividades en el futuro del Mecanismo de Cooperación Laboral y Desarrollo de Capacidades. El Consejo también intercambió información sobre la designación de los puntos de contacto en cada Ministerio y/o Secretaría de Trabajo, los cuales son necesarios para facilitar un diálogo continuo, con el fin de mejorar la capacidad de todos los participantes para coordinar los temas laborales relacionados al DR-CAFTA-USA.

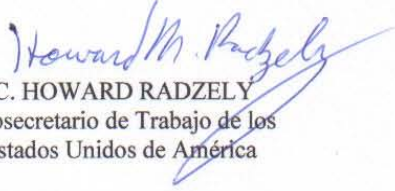
La reunión de hoy resalta el compromiso que tiene este Consejo con la democracia, la transparencia y la implementación del Capítulo Laboral con participación del público, así como lo exige el DR-CAFTA-USA. El Consejo de Asuntos Laborales destacó también el interés de reunirse en la sesión pública de la tarde del viernes veintiuno de Noviembre de 2008, con las organizaciones de trabajadores, empleadores, organizaciones de la sociedad civil y otras organizaciones que trabajan por el respeto a los derechos laborales con el propósito de fortalecer

**Annex D: Joint Statement from the Ministers of Labor of the CAFTA-DR region,**  
**Labor Affairs Council meeting, November 21, 2008**

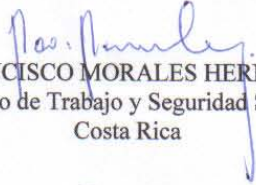
la coordinación y el diálogo entre los Gobiernos, las empresas, los trabajadores y el público respecto a la implementación de los compromisos asumidos en el Capítulo 16 Laboral del Tratado de Libre Comercio entre Centroamérica, República Dominicana, Estados Unidos de América.



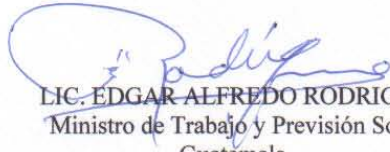
LIC. JOSÉ ROBERTO ESPINAL ESCOBAR  
Ministro de Trabajo y Previsión Social  
El Salvador




LIC. HOWARD RADZELY  
Subsecretario de Trabajo de los  
Estados Unidos de América



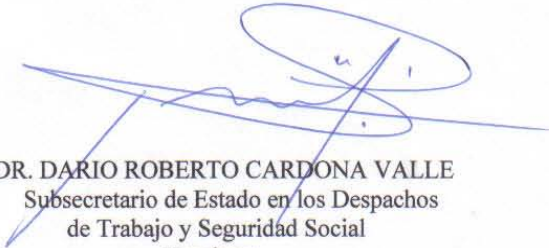
DR. FRANCISCO MORALES HERNÁNDEZ  
Ministro de Trabajo y Seguridad Social  
Costa Rica




LIC. EDGAR ALFREDO RODRIGUEZ  
Ministro de Trabajo y Previsión Social  
Guatemala



LIC. MAXIMILIANO PUIG  
Secretario de Estado de Trabajo  
República Dominicana



DR. DARIO ROBERTO CARDONA VALLE  
Subsecretario de Estado en los Despachos  
de Trabajo y Seguridad Social  
Honduras



DR. NAPOLEON RIOS MIRANDA  
Viceministro de Trabajo  
Nicaragua



### **Annex E: Overview of *Cumple y Gana* printed products**

For *Cumple y Gana I* and *II*, the project has produced and distributed more than 3 million units of materials on labor rights and obligations in the six CAFTA-DR countries. These materials include manuals, labor rights guides, registration manuals, publications on ILO conventions, labor law publications, road signs, bus stop signs, posters, calendars, leaflets, and CDs on labor rights.

	Costa Rica	Dominican Republic	El Salvador	Guatemala	Honduras	Nicaragua
Manuals	10,000	10,000	10,000	15,500	10,000	15,000
Pocket guides	10,000	-	10,000	10,000	-	10,000
Calendars	6,000	4,000	5,000	6,000	6,000	6,000
Flyers	515,000	500,000	254,000	325,000	566,000	525,000
Posters and billboards	127	6,000	500	2,080	1,000	36,000
Radio/TV spots	4/2	2/3	1/0	1/20	6/0	4/0
Manuals for alternative dispute resolution	500	0	1,050	-	1,000	-
Inspection manuals and protocols	100	400	450	200	300	200
Self-evaluation checklists	14,000	10,000	40,000	40,000	22,000	10,000
Gender studies	-	1,000	1,000	1,000	1,000	1,000
Manuals for training-of-trainers on gender issues	-	600	600	600	600	600
Gender brochures and other publications	-	4,600	5,600	5,350	10,390	5,000
Women's labor rights manuals	-	2,400	2,100	2,600	1,900	2,200
Other publications	2,500	2,047	500	2,321	14	1,500
<b>COUNTRY TOTAL</b>	<b>558,233</b>	<b>541,052</b>	<b>330,801</b>	<b>410,672</b>	<b>620,210</b>	<b>612,504</b>

## **Annex F: Overview of the ILO's Better Work Program**

### **Better Work: A model for market-driven social and economic policy coherence?**

Respect for fundamental principles and rights at work is not something that comes naturally out of adoption of ILO Declarations, U.N. resolutions, multi- or bilateral agreements or guidelines alone. The experience of the Better Work program over the last decade suggests that by aligning the incentives faced by workers, governments, employers, and international buyers and consumers, decent work can become a reality.

In 2003, the World Bank surveyed over 100 large multi-national companies and found that 61% of those purchasing manufactured goods rated labor standards as a sourcing criterion of equal or greater importance than factors such as price, quality and delivery time. This signaled that respect for workers' rights could be a valuable commodity in the global marketplace. It was in the wake of these findings that the ideas underpinning the Better Work program began to take shape and in 2006, the International Labor Organization (ILO) and the International Finance Corporation (IFC) launched the Better Work program to improve labor standards and competitiveness in global supply chains by using transparent factory monitoring as the key to aligning incentives for businesses, workers, and governments to improve worker rights and expand economic development.

### **What is the Better Work program?**

Facilitated by the ILO and the IFC, the Better Work program establishes a robust system of collaboration among governments, worker organizations, reputation-conscious buyers and local level suppliers to improve labor standard compliance and boost productivity. Based on a pilot first funded by the U.S. Department of Labor in 2001 in Cambodia's apparel sector called Better Factories Cambodia, Better Work is a unique model for assisting enterprises to improve practices based on internationally recognized core labor standards and national labor law. The program aims to improve both compliance with labor standards and competitiveness in global supply chains. The Better Work program monitors conditions in export factories, transparently publishes the results, and assists suppliers to comply with labor standards that many buyers and consumers want.

### **What is the current role of the U.S. Department of Labor (USDOL) vis-à-vis the Better Work program?**

Since funding the Better Factories Cambodia program in 2001, DOL has continued to promote the implementation of Better Work (from both a policy perspective and through direct technical assistance) in situations where the government determines that the program will be implemented sector-wide for all exporting factories. DOL is currently funding Better Work programs in Haiti, Lesotho and Nicaragua and USAID is funding a Better Work program in Jordan. In the future, DOL expects to support an expanded Better Work program globally, initiating new projects or supporting existing projects in select countries such as Bangladesh.

## **How does the ILO/IFC Better Work program promote economic and social policy coherence?**

The quick answer is that Better Work effectively aligns the incentives faced by factory owners, buyers, governments and workers to improve rights and livelihoods. Better Work makes the results of the factory assessments public, enabling international buyers to direct their orders to factories that are making improvements on worker rights and working conditions. As orders shift based on this information, the good factories expand, better jobs are created, and buyers are able protect their reputations. Since Better Work's inception in Cambodia in 2001 and later iterations in Jordan, Haiti, Lesotho, and Vietnam, the program has shown that compliance with labor standards can help enterprises be more competitive by attracting international buyers and expanding their orders, as well as contributing to improved productivity and better labor relations, ultimately leading to more sustainable and balanced economic growth.

## **What is the evidence that the Better Work program has led to broad-based economic growth and a more balanced recovery?**

From Cambodia's experience we know that high-compliance factories were *significantly* more likely to survive than other factories during the financial crisis of 2008-2009. Furthermore, compliance in Cambodia continued to improve even after the unit value of apparel fell after the end of the multi-fiber agreement (MFA). The global restructuring of apparel production after the MFA resulted in significant losses for many apparel producing countries as China and Bangladesh increased their shares of the global apparel market. The opposite occurred in Cambodia, which suggests that Better Factories Cambodia created a niche in the global apparel supply chain that provided a cushion against external economic shocks. The Cambodia experiment, which is still in operation and is being transitioned to local ownership and operation, was extremely successful. As we look back on its impact, it didn't just achieve its goal of improving working conditions and respect for worker rights. It also was an important development tool. The program helped to create more than 250,000 new jobs in the apparel sector and increased average monthly wages for apparel workers to US \$77 per month (compared to an average monthly household income of US\$40). As the sector expanded, the mostly women workers in the factories were earning enough to send remittances back to their families in the country-side. This helped fuel economic development throughout the economy—not just in one sector.

## **How has Better Work been extended to other international actors?**

Nothing succeeds like success, and the Better Work program's effectiveness is evidenced by the diversity and multitude of its supporters and its replication in Jordan, Haiti, Lesotho, Vietnam, Indonesia and Nicaragua. The program will soon be launching in Bangladesh, a country widely recognized as the global wage floor for garment workers. While DOL is funding much of this effort, other international donors (including Australia, Canada, the European Union, Finland, Germany, Ireland, Italy, Japan, Jordan, Luxembourg, the Netherlands, New Zealand, Norway, Sweden, and Switzerland) and

multinational brands, including, among others, GAP, Levi Strauss, Wal-Mart, Sears, and Target, are also supporting Better Work around the world.